FROM POLITICS TO POLICY

Building Regional Resilience in
WEST ASIA and NORTH AFRICA

From Politics to Policy: Building Resilience in West Asia and North Africa is an anthology of research conducted by the WANA Institute between 2015 and 2016 in the areas of human security, social justice, and sustainability. The chapters point to increased inter-sectorial collaboration being the key to crafting solutions for the developmental challenges facing the WANA region. Moreover, that by building resilience, empowering women, and promoting social justice, pathways towards prosperity and stability will be forged. While the notion of resilience is complex, it is a sine qua non for a new humanitarian order that places human dignity and security ahead of economic growth and political power. Such a strategy demands a change in the mindsets of policymakers, who must embrace challenges as naturally occurring phenomena, to be reacted to and learned from, as opposed to resisted. There is no doubt that the region possesses both the natural and human resources necessary to promote modern, pluralistic societies where there is no place for violent extremism, marginalisation or exclusion. Building resilience does not mean that every possible scenario must be planned out. Instead, it involves learning how to cope with surprises in a constructive way. This book argues that in times of chaos, it is human security, above all else, that will promote stability.

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WEST ASIA and NORTH AFRICA

FOOD CHILDREN
SECURITY COMMUNITIES نمو
مستقبل SDGs ACCESS TO
حدود PROSPERITY YOUTH WOMEN JUSTICE
AUTONOMY سياسة DIVERSITY HOPE
EDUCATION RESILIENCE ARAB تجارة اسلام
REFUGEES HUMAN SECURITY PARTNERSHIP STABILITY
CLEAN ENERGY تعاون WANA EMPOWERMENT
SUSTAINABLE DEVELOPMENT مسيحية NEIGHBORHOOD
CONTINGENCY INNOVATION CLIMATE AID
PLANNING SOCIAL JUSTICE أمان CHANGE
FOOD-WATER-ENERGY NEXUS GREENING
الزكاة GREEN ECONOMY WANA ECONOMIC
HUMAN DIGNITY EMPOWERMENT
ASYLUM SEEKERS RESPECT
POTENTIAL INTERFAITH
تحمل
موارد

From Politics to Policy: Building Regional Resilience in West Asia and North Africa

*Mapping a New Regional Architecture
for Peace, Development, and Human Dignity*

In the midst of chaos, there is also opportunity.

Sun Tzu, *The Art of War*

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Building Resilience amidst Chaos: An Introduction

His Royal Highness Prince El Hassan bin Talal and Anja Wehler-Schoeck

The people of the West Asia-North Africa (WANA) region face an unprecedented set of interconnected challenges. These include water scarcity, energy shortages, protracted conflict, and exceptional human displacement. These issues transcend national borders by their very nature. In the absence of a regional framework for understanding and responding to these events, chronic development problems have been aggravated. The consequences for social cohesion, equitable resource sharing and human dignity are clear, leaving the region's people at a complex crossroads of resource and institutional deficits, incomplete transitions and fracturing polarisation.

This state of affairs presents not only challenges but also opportunities. Resilience is the capacity of individuals, peoples, organisations and states to endure and evolve in response to shocks, be they exogenous, internal, environmental, economic or social.[1] It is about harnessing the region's carrying capacity, and shifting the way policy- makers think about crises, stresses and shocks. Resilience is the toolbox that WANA needs to confront socio-economic stagnation, violent extremism, climate change and ecological decline.

Coping with unpredicted change is a daunting task, imbued with challenge. Zero change equates to stagnation, while at the same time, too much change without corresponding adaptation and innovation, can destroy social and ecological systems. It is this latter type of destruction that the WANA region is facing today. Unregulated and unbounded change has resulted in quick fixes and containment strategies, with a view to building stable institutions and societies over the long term. While the intention is sound, the results have not accrued, because stability can be rigid and inflexible, whereas resilience demands flexibility.

Today, WANA as a socio-ecological system is not sufficiently resilient to seize the opportunities embedded in every crisis and challenge. As such, it inherently risks becoming a victim – rather than a champion – of change. We need states, societies and institutions that expect change, rather than shield from it. We must enable people and institutions to capitalise on unexpected events, and build a new architecture that is designed to wage peace and further a security agenda, in which humans are the referent objects of security. Only when that happens will the region strengthen as a whole, overcome identity fragmentation and bolster social cohesion.

The rationale of this book is to transform how policy-makers think about challenges and crises, by demonstrating that while quick fixes earn short-term political gains and may delay crises, the long-term costs are higher and the problems prone to recidivism. Such tactics must be replaced with a holistic and long-term approach to resilience that focuses on all dimensions of the human environment. This approach will take more time and involve more resources — both political and financial — but its outcome will be more sustainable. At the centre of the approach is a recognition that the WANA region has an inherent potential that can be harnessed for the benefit of its people, rather than a privileged few, if only an inclusive regional architecture is adopted.

The State of WANA and the War against Humanity

The 'Arab Awakenings'[2] epitomise an opportunity missed when the winds of change were blowing in WANA. The self-immolation of a young man in Tunis in December 2010 sparked demonstrations and

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[1] F Moberg and S H Simonsen, 'What is resilience? An Introduction to social-ecological research', *Stockholm Resilience Centre*, <http://www.stockholmresilience.org/> at 16 December 2015.
[2] M Muasher, *The Second Arab Awakening and the Battle for Pluralism* (2014), Yale University Press.

riots that forced then-President Ben Ali from power. This unleashed a series of popular uprisings and instilled new hope in people across the region. Analysts, policy-makers, scholars, civil society, commercial enterprises, and the wider global public were quick to recommend democratisation, liberalised markets and fundamental freedoms, then waited with bated breath. Yet, political liberties in the form of elections do not automatically make social injustice disappear, create opportunities or erase sectarian divides. The uprisings exposed a lack of social cohesion and deep identity fragmentation in the region. They also demonstrated how lack of capacity to deal with change spawns calamity and suppression, rather than growth and sustainable development.

This raises the important distinction between sensitivity and vulnerability. Sensitivity is the degree to which a system is either adversely or beneficially affected by internal or external change.[3] For instance, the 2008 financial crisis that burst the US housing bubble, instantly shook the global economy. This was due to increased economic sensitivity caused by globalisation. Vulnerability, on the other hand, is the degree to which a system is unable to cope with internal or external stress, i.e. the likeliness to sustain damage due to lack of adaptive capacity.

WANA's sensitivity and vulnerability has been gradually built up by a history of fragmentation, colonisation, and 'divide and conquer' politics.[4] Yet it is not constructive to blame a century of weak governance and policy-making on colonial legacies. Leaders must champion regional outcomes by employing inclusive policies based on human dignity to further the construction of a common Arab identity. For the past 60 years, the region has been caught up in conflict. In this decade alone, there have been at least six major conflicts, many of which continue to wreak havoc today.[5] Libya has been in turmoil since 2011, and has steadily moved towards state failure.[6] The Syrian conflict has been transformed from intra-state to internationalised, and is emerging as this century's worst international failure.[7] Yemen is once again the battleground of a proxy war, but this time, Egypt has sided with Saudi Arabia against Iran.[8] Egypt is waging its own 'war on terror' in the Sinai, where the insurgency has led to almost every-day armed confrontations.[9] Iraq is struggling to regain control over its territory; the security situation is abysmal given the militarization of Iraqi society and weapons proliferation, and the weak façade of democracy risks failure.[10] Then there is the Israel-Palestine conflict, a solution to which seems even further away than it did in 1948.[11] While the global trend of fewer conflicts might be a reason for optimism,[12] it is misrepresentative of WANA — the statistical outlier where conflicts abound.

In the midst of this unrest, violent extremism and terrorism have emerged as new threats to lives, social cohesion and identity. The security policies that emerged following the events of 11 September 2001 show a deep failure to understand causal logic,[13] and have contributed more to the growth of terrorism than its demise. Certainly, if bombs were a way to peace, WANA would be the most peaceful region on earth.[14]

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[3] See IPCC, *Climate Change 2014: Impacts, Adaptation, and Vulnerability* (2014), <http://www.ipcc.ch/report/ar5/wg2/> at 30 October 2016.

[4] D Fromkin. *A Peace to End All Peace: The Fall of the Ottoman Empire and the Creation of the Modern Middle East*, (2009), New York: Henry Holt and Company, LLC.

[5] vUCDP, 'Uppsala Conflict Database Program' <http://pcr.uu.se/research/ucdp/> at 20 November 2015.

[6] See K Mezran, 'Libya in Transition: *From Jamahiriyya to Jumhuriyya*?' in F Gerges (ed), *The New Middle East: Protest and Revolution in the Arab World* (2014) 309; UCDP, 'Uppsala Conflict Database Program' <http://pcr.uu.se/research/ucdp/> at 20 November 2015.

[7] See UNOCHA, <http://www.unocha.org/syria> at 5 December 2015; A Lund, 'The Non-State Militant Landscape in Syria', (2013), *CTC Sentinel*, vol. 6(8), 23; UCDP, 'Uppsala Conflict Database Program' <http://pcr.uu.se/research/ucdp/> at 20 November 2015.

[8] See UCDP, 'Uppsala Conflict Database Program' <http://pcr.uu.se/research/ucdp/> at 20 November 2015.

[9] The situation is a consequence of years of repression and exclusion. O Ashour, 'Sinai's Stubborn Insurgency: Why Egypt Can't Win', (2015-11-08) Foreign Policy, <https://www.foreignaffairs.com/articles/egypt/2015-11-08/sinais-stubborn-insurgency?cid=soc-tw-rdr> at 16 December 2015.

[10] See UCDP, 'Uppsala Conflict Database Program' <http://pcr.uu.se/research/ucdp/> at 20 November 2015.

[11] UNOCHA < https://www.ochaopt.org/> at 16 December 2015. See UCDP, 'Uppsala Conflict Database Program' <http://pcr.uu.se/research/ucdp/> at 20 November 2015.

[12] UCDP, 'Uppsala Conflict Database Program' <http://pcr.uu.se/research/ucdp/> at 20 November 2015.

[13] See Al-Jazeera, 'Hollande: France to step up fight against ISIL', (2015-11-23) <http://www.aljazeera.com/news/2015/11/hollande-blair-france-step-fight-isil-paris-attacks-151123034745436.html> at 23 November 2015; UNSC, 'Security Council Unequivocally Condemns ISIL Terrorist Attacks, Unanimously Adopting Text that Determines Extremist Group Poses Unprecedented Threat', (2015-11-20) <http://www.un.org/press/en/2015/sc12132.doc.htm> at 23 November 2015.

[14] S Swan, 'If bombing the Middle East was the way to peace, it would be the most peaceful place on Earth', (2015-12-03) <http://www.democraticaudit.com/?p=17956> at 4 December 2015.

Solutions must focus on equal opportunity, participatory governance, social justice[15] and, in the words of Ian Buruma, "giving young men with a death wish a reason to live."[16]

But armed conflict and violent extremism are not the only, nor the most virulent, challenges facing WANA. Groundwater contamination, desertification, droughts, floods and fresh water scarcity are among the imminent implications of climate change. The 2007-2010 drought is an often-overlooked factor in the Syrian civil war. The ensuing crop failure led to a mass migration of some 250,000 farmers to urban centres, fuelling social tensions across rural-urban fault lines and pushing up to three million Syrians into extreme poverty.[17]

The potential does not end here; in Iran, natural bodies of fresh water are drying up, and as a result, 45 million people are at risk of forced migration.[18] By contrast, rising sea levels threaten up to 40 million people in the Nile delta. The ensuing saltwater encroachment will destroy livelihoods, by rendering the soil uncultivable.[19] Groundwater over-exploitation has also led to saltwater encroachment in Israel and Gaza. Experts say that aquifer salination will be irreversible by 2020; as Gaza relies entirely on groundwater for its fresh water supply, this part of the region will become unliveable.[20] Similar issues threaten Iraq and Yemen, where poor agricultural practices continue to drive water and food insecurity. The interconnection between civil strife and environmental stress finds no better locus than the region's refugee crisis. Jordan, the world's third most water-scarce country,[21] has been sheltering hundreds of thousands of refugees; the demand for fresh water and food has increased beyond what can possibly be supplied.

The makeup of the region's economies constitutes yet another challenge. WANA is highly sensitive to global market shocks. While this is not unique, the institutional incapacity and lack of social cohesion to deal with economic stresses manifest in vulnerability. Deep inequality aggravates the situation; in 2013, Qatar's GDP per capita stood at US$ 93,714 compared to Yemen's meagre US$ 1,473.[22] The way forward is elaborated regional economic integration; intra-regional investments to foster economic growth and development by bridging the gap between domestic savings and the need for investments. Such a redistribution of wealth could significantly reduce poverty, and provide a gateway to economic growth for both rich and poor countries, decreasing their vulnerability to economic stress. Another risk area relates to employment and entrepreneurial opportunity. Despite high secondary and tertiary education rates in many Arab states, youth unemployment sits at 22 percent for men, and as high as 40 percent for women.[23] A review of where Arab countries sit on the Ease of Doing Business Index illustrates how entrepreneurialism is held back by difficulty in obtaining credit, enforcing contracts, and accessing training and skills development.[24]

The root source of this economic vulnerability is the lack of diversification that stems from rentierism. The majority of the states in the region are dependent on either oil rents or foreign aid rents. The danger of relying on this Ricardian model of comparative advantages is clear; if the sector where the country enjoys

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[15] T Bjørgo (ed), *Root Causes of Terrorism: Myths, reality and ways forward*, (2005) Oxon: Routledge; M Hafez, *Why Muslims Rebel: Repression and Resistance in the Islamic World*, (2003) Boulder: Lynne Rienner Publishers.

[16] I Buruma, 'Why Abdelhamid Abaaoud Wanted to Die', (2015-11-18) *Foreign Policy*. <http://foreignpolicy.com/2015/11/18/the-draw-of-the-death-cult/> at 19 November 2015.

[17] C.P Kelley et al, 'Climate change in the Fertile Crescent and implications of the recent Syrian drought', (2015) 112(11) *PNAS*, pp. 3241; IRIN News, 'SYRIA: Drought pushing millions into poverty', (2010-09-09), <http://www.irinnews.org/report/90442/syria-drought-pushing-millions-into-poverty> at 31 October 2015

[18] A Karami, 'Iran Becoming Uninhabitable, Says Former Agricultural Minister', (2013-07-09) Al-Monitor, <http://iranpulse.al-monitor.com/index.php/2013/07/2353/iran-becoming-uninhabitable-says-former-agriculture-minister/> at 14 November 2015

[19] Estimates vary between some 5 million up to over 40 million people. See IPCC *The Regional Impacts of Climate Change: An Assessment of Vulnerabilities* (1997); C McGrath, 'Nile Delta disappearing beneath the sea', *Al-Jazeera*, < http://www.aljazeera.com/indepth/features/2014/01/nile-delta-disappearing-beneath-sea-201412913194844294.html> at 16 November 2015.

[20] See a UNSCO special report from 2012, cited in IRIN News, 'OPT: Gaza's water could be undrinkable by 2016', (2012-08-30) <http://www.irinnews.org/report/96209/opt-gaza-s-water-could-be-undrinkable-by-2016> at 16 December 2015.

[21] Maplecroft, Water Security Index, <https://www.maplecroft.com/about/news/water_security.html> at 30 October 2016.

[22] The World Bank, < http://www.worldbank.org/> at 16 December 2015.

[23] ibid, n. 21

[24] Doing Business, 'Doing Business 2016: Measuring Regulatory Quality and Efficiency', (2015-10-27) *World Bank Group*, <http://www.doingbusiness.org/reports/global-reports/doing-business-2016> at 16 December 2015.

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a comparative advantage fails, it has little to fall back on. A recent report from the IMF suggests that Saudi Arabia could be bankrupt by 2020 if low prices on crude oil persist.[25] Diversification is the only tool of resilience for these and other oil-producing states in the Gulf.

The imminent threat of a third world war has been frequently discussed in media, policy, and security circles of late. In one sense, World War III is already raging in WANA. But it is not a war between nation-states, nor against terror. It is a war against humanity; the battleground is ideological, and the weapons are values. Only by focusing on human dignity and enabling people to live their lives with self-respect, will stable countries and peaceful regions evolve. If peace is our ideology, then equality, dignity, dialogue and justice must be our weapons. And this war against humanity implies more than a threat of armed violence. We have also made an enemy out of the environment. The threat of weapons of mass destruction pales compared to water scarcity or the implications of climate change. These are shared issues that transcend the boundaries of nation-states and must be approached through a regional framework. Planet earth can be a formidable enemy or a patron of humanity; the choice is ours.

Conceptualising Resilience: How to Embrace Change as an Inevitable Positive

Examining and understanding threats through the perspective of resilience exposes the opportunities presented by crises and different types of stress. Adaptation and change are intricate phenomena, and nature has proven itself more adept than humans. The Arabian camel has evolved to withstand the desert climate. Its legs elevate the body, distancing it from the sand's heat; long, bushy eyelashes and a third transparent eyelid protect its eyes from sand, and specially designed nostrils can close, shielding its respiratory system and preventing dehydration. With adequate foliage, camels can live for up to 10 months without water; their lips and mouth are designed so they can eat thorny plants when food is scarce; camels can tolerate salty water, and do not start to sweat until their body temperature reaches 41°C.[26] The camel has adapted to the environment in which it lives. It has built capacities and capabilities; it is resilient.

According to the Stockholm Resilience Centre, resilience is the capacity of a system to adapt to change and grow stronger from crises and different types of stress.[27] This suggests that crises are a prerequisite for development, and that resilience can only grow over time. Evolution is nature's approach to resilience; and while it is possible for societies to build resilience faster, to do so we must work within the context of the socio-ecological system. Instructively, the camel has adapted to its environment in ways that do not harm the ecological balance. It is axiomatic that resilience of one part of the system should not come at the expense of another; policy-makers have to employ a holistic approach, both spatially and disciplinarily. This is why a regional strategy as opposed to national interests must be articulated; regional capacity is the only way to overcome the crises affecting individual nation-states.

Nassim Taleb's concept of antifragility provides an interesting approach to thinking about building resilience in the WANA region. For Taleb, the opposite of fragile is not, contrary to first instinct, stable; it is antifragile. A glass, for example, may be stable if left untouched; but it will break when exposed to shocks like sudden heat or being dropped from a height. A society is antifragile if, when it is exposed to shocks, stress or a crisis, it becomes stronger, rather than breaking.[28] Resilience, is thus about learning to become antifragile.

The antifragility concept implies that attempts to predict or prevent crises are futile and unhelpful. These

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[25] IMF, 'Regional Economic Outlook: Middle East and Central Asia', (2015) <http://www.imf.org/external/pubs/ft/reo/2015/mcd/eng/mreo1015.htm> at 16 December 2015.

[26] *Britannica Academic, s. v.* "camel" (2015) <http://academic.eb.com/> at 10 November 2015.

[27] F Moberg and S H Simonsen, 'What is resilience? An Introduction to social-ecological research', *Stockholm Resilience Centre*, <http://www.stockholmresilience.org/> at 16 December 2015.

[28] N Taleb, *Antifragile: Things That Gain from Disorder*, (2012) New York: Random House.

unexpected, shocks and challenges are 'black swan'[29] events; they have high impact and are unpredictable.[30] It is not a question of determining when shocks will occur or how to prevent them; the goal is to build a system that can take a potential threat in its stride. Stable systems avoiding change and risk are, somewhat paradoxically, more vulnerable to crises than antifragile ones. This is because the former tries to build adaptive capacity, i.e. resilience. The camel does not try to predict the next heat wave; it just deals with it in the way it has evolved to do. As it repeats this process, it becomes increasingly resilient. Likewise, eco-social systems need crises to develop, adapt and grow; they feed off disorder to develop.[31] Through this lens, the Arab Awakenings might be understood as an example of a black swan event. They were unpredicted and had profound consequences for the region. This particular black swan also exposed both the fragility of WANA states and the robustness of its people.

A key concept in resilience is carrying capacity. While the concept has been extended to the social domain, it is principally an ecological idea. Put simply, the carrying capacity of the planet is the ratio of human beings to natural resource use; how many lives can the planet sustain? Following Malthusian logic, if the global population was to enjoy the ecological standards of North Americans, three Earths would be required to satisfy aggregate material demand using prevailing technology.[32] Resilience is about augmenting carrying capacity in ways that do not deplete the planet's resources and do not require more than 1.0 planet Earth. Innovation will be key, but only when distributive policies are guided by an ethic of human dignity and equality.

Another central principle in applied resilience thinking is diversity and redundancy. Planting multiple crops serves as an insurance against a single crop's failure. It is not the most efficient approach to economic growth, but it does build resilience. Likewise, having multiple options is the most effective means of responding to crises and dealing with uncertainty. Another principle is high connectivity that, while generating increased sensitivity, enables a system to recover faster. In crises, an inability to cooperate across institutions, governmental bodies, levels of society and national boundaries is highly associated with failure. This is akin to the principle of polycentric governance, where the failure of one governing body cannot mean a complete system breakdown.[33]

Alaa Al-Aswany wrote that "Egyptians are like camels: they can put up with beatings, humiliation and starvation for a long time but when they rebel they do so suddenly and with a force that is impossible to control."[34] This may also be true of the people of WANA; they are extremely durable, and there is an enormous unexploited potential in this. If enabled, they will augment their nations' carrying capacity and thereby their ability to deal with climate change, water scarcity, conflict and economic stress through innovation.

Three Pillars of Resilience

A tentative operationalisation of resilience consists of three pillars that must be built in WANA: the economy, society, and the environment. These pillars form a system, which henceforth will be referred to as the human environment. Because all three pillars are interdependent, a holistic approach is required. Moreover, building resilience must logically transcend national boundaries and be understood as a systemic approach. Focus on single issues is not constructive when challenges are mutually constitutive; moreover,

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[29] The metaphor is derived from the discovery of black swans in Australia in 1697, before which Europeans believed that only white swans existed, and thus came as a surprise. The point is that one cannot rule out the possibility of a black swan simply on the basis that none has yet been sighted. It alludes to the logical fallacy of induction, and to retrospective logical conclusions in general, about events that are impossible to predict but post hoc seem perfectly rational-logical, given that the data to predict them existed *propter hoc.*

[30] N Taleb, *The Black Swan: The Impact of the Highly Improbable*, (2007) New York: Random House and Penguin.

[31] N Taleb, *Antifragile: Things That Gain from Disorder*, (2012) New York: Random House.

[32] D Meadows, J Randers and D Meadows, *The Limits to Growth; The 30 Year Update* (2004) White River Junction: Chelsea Green Publishing, 122.

[33] S H Simonsen et al, 'Applying resilience thinking: Seven principles for building resilience in social-ecological systems', Stockholm Resilience Centre, <http://www.stockholmresilience.org/> at 16 December 2015.

[34] A Al Aswany, On the State of Egypt: *What Made the Revolution Inevitable* (2011), New York: Vintage Books, p. viii.

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resilience always involves building the capacity of a system as a whole.

To understand and build the carrying capacity of the human environment, one must first grasp and accept the premise of cohabitation. By the very nature of our inhabiting the earth we cohabit with others; however, the involuntariness of our existence among others with whom we did not, and perhaps would not, choose to cohabit, should not detract from our responsibilities to their well-being and dignity.[35] This premise applies to all three pillars of resilience. Denial of responsibility towards others can build stability, but at the cost of increased fragility. Building resilience thus requires an ethical code of conduct based on the premise of cohabitation with all humankind.

Economic Resilience

WANA is the region with the lowest level of intra-regional trade in the world. Economic resilience entails the creation of incentive structures to augment intra- regional trade. This could be part of a new regional architecture, in which economic integration is looked upon as something inherently positive. A mentality change is needed, where the well-being of a neighbour is crucial for one's own.

With persistently low oil prices, oil rents will not generate the vast amounts of capital that the oil producing Gulf countries are used to. Moreover, as campaigns to move away from fossil fuels have been remarkably successful – so far US$ 2.6 trillion has been divested[36] – there is a strong incentive to diversify. The record surpluses that were generated before the fall in oil price could have constituted an opportunity. If invested in the region's poor areas, not only could that have furthered economic integration and diversify oil economies, it would have helped to build a social fabric that holds the region together. It is not too late to redirect some of the funds in the region.

WANA's high levels of sovereign debt are equally problematic and increasingly pose a threat to human security. This issue is further increasing by poor public budget management as well as consumerist attitudes. One alternative is to better engage Islamic banking systems, which discourage high debt levels, and alongside this promote value-added economic activity.

Economic resilience is an important aspect of a culture of inclusive institutions to incentivise and entitle people to govern their lives.[37] Indeed, with a large population of unemployed youth, there is enormous unexploited potential for growth. But equally, political liberties remain a peripheral issue as long as basic human needs are not met. The economic vulnerabilities in WANA are therefore part of the explanation for the abundance of discontent and conflict. This again demonstrates the interconnected nature of resilience, and that building capacities in one pillar affects but also necessitates the other pillars.

Social Resilience

The Syrian conflict revealed an identity fragmentation that had been present in WANA for centuries. The idea of a region with a coherent identity was as uninformed and far from the truth as the myth of a European identity. The construction of identity fluctuates over time, but always occurs in relation to an 'other'.[38] Different identities, however, are not the issue, particularly if we accept the principle of cohabitation. The problem is that identity fragmentation has been further exacerbated by an escalating animosity, driven by inequalities across ethnic, national, tribal and religious lines, as well as social status and class. Relative deprivation leads to a perceived divergence of interest, which is at the core of all social conflict.[39] This has essentially led to a lack of social cohesion that can only be solved by accepting cohabitation and advancing a human identity.

[35] J Butler, 'Precarious Life, Vulnerability and the Ethics of Cohabitation' (2012), *Journal of Speculative Philosophy*, vol. 26 (2), p. 137.

[36] D Carrington and E Howard, 'Institutions worth $2.6 trillion have now pulled investments out of fossil fuels', (2015-09-22), *The Guardian*, <http://www.theguardian.com/environment/2015/sep/22/leonardo-dicaprio-joins-26tn-fossil-fuel-divestment-movement> at 15 November 2015; Fossil Free, <http://gofossilfree.org/> at 15 November 2015.

[37] R Inglehart and C Welzel, 'The Role of Ordinary People in Democratization', (2008) 19(1), *Journal of Democracy*, 126, 129

[38] A Giddens, *Modernity and Self-Identity: Self and Society in the Late Modern Age*, (1991) Cambridge: Polity Press; D Smith, 'The Problem of Essentialism' in D Smith and I Skjelsbaek (eds), *Gender, Peace and Conflict*, (2001) Thousand Oaks: SAGE Publications Inc., p. 32

[39] D G Pruitt and S H Kim, *Social Conflict: Escalation, Stalemate, and Settlement*, (2004) New York: McGraw-Hill.

In this context, it is imperative for both social and economic resilience that the hardships presented by the refugee crisis are perceived and acted on as opportunities. Jordan, for instance, has struggled to develop an industrial sector. Large-scale investments here could create job opportunities for both Jordanians and refugees, and move labour from a water-inefficient and overaged agricultural sector into a foundation for resilience. Such an approach could also increase tax revenues and produce sustainable economic growth. This type of thinking in crisis is the epitome of resilience building; a mentality shift that allows us to think of change as both inevitable and inherently positive.

The WANA region cannot afford to think of refugees as a problem caused by the Syrian conflict. UNHCR estimated that as of 2003, refugees will remain displaced in a host country for an average of 17 years.[40] If they are going to cohabit the host country, we must think of them not as masses but as humans. It is imperative to further a regional citizenry, where a person can, for example, be a Syrian, an Arab, an Ismaili, a father, a West Asian, and above all an equal, at the same time without friction. There cannot be a denial of the plethora of identities in WANA, nor can a single identity be the equivalent of exclusion. Social resilience is about leaving historic, ethnic, economic, religious, sectarian, and national differences aside in favour of standing together.

For this, it is essential to address the social injustices and inequalities that exist in WANA. There is no acceptable explanation as to why a six-year-old child in Yemen should not have the same opportunities as a six-year-old child in Qatar. Social resilience is built on equality in education, opportunity, healthcare and citizenship. Indeed, a large contingent of underprivileged and exploited guest workers in many WANA countries undermines social cohesion by fuelling an antagonising idea of otherness. Access to justice is key to social resilience. The Sustainable Development Goal (SDG) on justice addresses this issue in a theoretical framework, but it must be implemented without prejudice in the entire region. Women's legal empowerment is likewise crucial; WANA cannot afford to alienate half of its population from both social and professional life.

Environmental Resilience

To build resilience in the human environment, the social and the economic spheres must harmonize with the environmental. A recent report from the International Panel on Climate Change (IPCC) states that human activity accounts almost exclusively for the climate change recorded since 1950.[41] Anthropogenic impact is akin to a black swan event for the environment, and as such, we as human beings must desist from being the main ecological stressor. The consequences of doing nothing are catastrophic; in the 'business as usual' scenario, the region will see temperatures of between 55-60 degrees Celsius every summer.[42] Recent heat waves make this easy to anticipate. As an example: in 2015, over a hundred people died as a consequence of Egypt's 47 degree hot spell.[43]

The region must reverse the tragedy of the commons and build environmental resilience through home-grown perspectives on sustainability and natural resource management. The average person in the West Bank receives 100 m3 of water per year against the World Health Organization (WHO) recommendation of 1000 m3, yet the majority of existing water resources are used in largely inefficient agriculture.

In Jordan, more than 50 percent of water resources are being consumed by agriculture, which is hugely unrepresentative of the sector's share in GDP (ca. 3%); most of it feeds crops that are water-intensive. Even worse, about half of the water resources made available in Jordan are lost through worn infrastructure and

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[40] This is an increase from 1993, when the estimate was 9 years. There is no known estimate as of today, which means that an average of 17 years might even be an understatement. See UNHCR, 'Protracted Refugee Situations', Executive Committee of the High Commissioner's Programme, Standing Committee, 30th Meeting, UN Doc. EC/54/SC/CRP.14, (2014-06-10), p. 2.

[41] IPCC, 'Climate Change 2014: Synthesis Report', (2014) *Contribution of WG I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, <http://ar5-syr.ipcc.ch/> at 16 December 2015.

[42] J.S Pal and E.A.B. Eltahir, 'Future temperature in southwest Asia projected to exceed a threshold for human adaptability', (2015) 10, *Nature Climate Change*, <doi:10.1038/nclimate2833> at 31 October 2015.

[43] E Meerman, 'Middle East to become Unlivable as Temperatures Soar, Warns Study', (2015-10-29), *Egyptian Streets*, <http://egyptianstreets.com/2015/10/29/middle-east-to-become-unlivable-as-temperatures-soar-warns-study/> at 31 October 2015.

theft. While the country's water scarcity is common knowledge, rainwater collection is still a rare sight in the Kingdom. Groundwater is being used at clearly unsustainable rates. Policies need to promote a turnaround and attitudinal change with regard to more efficient and responsible consumption patterns.

Energy is another pressing issue for the region. Fossil fuels are the principal energy source in WANA, and the most significant factor in anthropogenic climate change. We must shift our energy supply. Sweden's vision to become the first fossil free country in the world[44] provides a pioneering model for oil-reliant economies to diversify, and creates incentives for WANA states to shift their energy consumption to renewable sources. In this regard, the desert is a resource that WANA has not nearly exploited to full potential. Our solar energy potential is enormous; the amount of energy contained in one hour of sunshine on earth is enough to meet the global energy demand for one year.[45]

These are problems that cannot be bribed away or bought, nor can they be fought with guns or weapons of mass destruction. Environmental resilience is the only response, and for that we need policies, regulations, investments and political will to work across national boundaries. There needs to be a regional regime that promotes cooperation on water-related issues aimed at achieving sustainable water usage.

Conclusion

The current state of the WANA region and the lack of constructive high-level initiatives to address these issues show the need for evidence-enabled policies to further human dignity. This requires a paradigm shift in policy-making towards a resilience-oriented perspective. While this introductory chapter has made a case for developing a regional resilience strategy, the remaining chapters provide evidence and recommendations for effective policy solutions.

The book is divided into three parts that chart the way forward: (i) human security as an outcome of chronic conflict, (ii) social justice as the key to peace, and (iii) water and energy in a human environment. The evidence and findings of these chapters provide a basis from which constructive policy recommendations can be articulated. Together, they highlight the need to move from politics to policy WANA, which involves building resilience by streamlining inclusive institutions that expect crises and chaos, and provide adaptive capacities. The book concludes with a chapter that brings together the key policy recommendations, which could constitute a first step towards a new regional architecture and resilience strategy.

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[44] L Chow, 'Sweden to Become One of World's First Fossil Fuel-Free Nations', (2015-09-25), *EcoWatch*, <http://ecowatch.com/2015/09/25/%E2%80%8Bsweden-fossil-fuel-free/> at 15 November 2015.
[45] Climate Reality Project, <https://www.climaterealityproject.org/> at 16 December 2015.

Part I:
Human Security in the Context of Chronic Conflict

Adel Elsayed Sparr

When Francis Fukuyama proclaimed the end of history in 1992 — that after the fall of the Soviet Union, mankind's ideological battles were over and liberal democratic ideals had won[46] — he could not have been more wrong. Of course, over 20 years later, it's easy to say this, but it seemed that he forgot there was a world beyond Europe and North America. While this part of the world suffered from a kind of 'end- of-history-euphoria', the lives of people in the WANA region did not improve. Consequently, something was boiling beneath the authoritarian surface. Resentment grew toward oppressive regimes and their Western backers, who had frequently intervened in the region and its affairs. A politics of identity came to the fore and replaced ideology as a prime means to mobilise people.[47] Indeed, only two weeks after the 9/11 terrorist attacks, Fareed Zakaria wrote: "This is surely the End of the End of History."[48]

To spell it out clearly: history never ended. Rather, it was a new type of history that had begun, in which an already complex world became almost inapprehensible. Even if the transition did not happen overnight, the dissolution of the Soviet Union became a natural starting point for this. The drivers of this transition were many — globalisation and its consequent increase in migration of ideas, information and people was definitely one of them — but fundamentally, identity instead of ideology became the main fault line and catalyst for conflict. It was not, however, a clash of civilisations.[49] It was a failure by states to accommodate the basic human needs of people — especially in the WANA region. This provided a fertile ground for identities that transcended state boundaries, overriding national identities.[50]

The emerging international insecurities simply could not be framed in military- rational terms, and there was no longer any grand theory that could explain international affairs. The state was not the sole actor in international politics, and this fundamentally changed the premise for how security needed to be understood.[51] While this did reflect reality, policy-makers continued to frame security simply as a state imperative to be upheld primarily by military means.

This had severe consequences at the overlooked human level. Whereas at the state level, it may briefly have seemed as if it were the end of history, the increasingly interconnectedness of the world enabled the rise of non-state actors and eroded national boundaries both from above and below. Policy-makers were not oblivious to these new challenges, but their policies were still crafted within a traditional security framework. Therefore, they never really accommodated the new realities that ordinary people were starting to experience, and a detachment between the respective perspective of state and society developed, which can be described as a quasi-conception of security (see Table 1).

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[46] F Fukuyama, *The End of History and the Last Man*, (1992) New York: Free Press.

[47] K Fierke, *Critical Approaches to International Security*, (2007) Cambridge: Polity Press, 75-96.

[48] F Zakaria, 'The End of the End of history', (2001-09-24), *Newsweek* <http://europe.newsweek.com/end-end-history-152075?rm=eu> at 23 January 2016.

[49] See S Huntington, *The Clash of Civilisations and the Remaking of World Order*, (1996) New York: Simon & Schuster.

[50] Identities that are not national can be sub-national or transnational. Supra-national identity equals a civilisation in Huntington's notion (see above note), and there have been no de facto signs of conflict between regions in modern times. Islam is often quoted as the civilization that West is at war with, but this is an overgeneralization and consistently refused as a symptom. Islam is used as an identity marker to stipulate common action amongst a few, rather than what action they should actually take. Thus, Islam is less an ideology with content and more an identity marker that sometimes is abused along the lines of violent extremism.

[51] P Bilgin, 'Critical Theory' in P Williams (ed), *Security Studies: An Introduction*, (2008) New York: Routledge, 89, 94-96.

Human Security and Threat Perception

Against the background of the transition to a post-Cold War world and the changes brought with it, a need to understand security accordingly emerged. However, security is a derivative concept, which means that an understanding of what security is or should be derives from a specific political outlook.[52] One result is that there will always be fundamental disagreement about what security means depending on one's political outlook. Notwithstanding, it is possible to analyse security through an inquiry into which threats exist and against what, and who should provide security against those threats. It also involves the inherently normative question of what or who should be protected.

Table 1: Conceptions of security

Concept	What to protect	Main threat	Security provider	Means of security
Traditional	State	State	State	Hard power
Quasi- conception	State	Multiple	State	Hard power
Human security	Humans	Multiple	Multiple	Multiple

The traditional notion of threat and security was that states should be protected against threats from other states, predominantly by hard power, i.e. military means of states. The security dilemma that arose from the Cold War arms race epitomises this conception and security policy. Here, security is seen as a property of the state; it either has it or not.[53] This creates a very narrow understanding of security. Today, the threats are to an increasing extent non-state, and sometimes not even human. Indeed, natural disasters, water scarcity and famine are very real threats, primarily to humans. Moreover, it is not logical to think that tools of war could create peace. In response to a shifting security reality, there is a need for perceptive change. Conversely, human security entails a normative position in which the referent object of security are humans, the threats are varied, the provider of security is not given, and the means to achieve security should be diverse, given the nature of these threats.

Subsequently, to understand what achieving security entails, a constructive approach is to examine what threat or danger is. Indeed, security means the "freedom from danger or threat."[54] A sense of security is therefore contingent on threat perception. However, human beings are as a species, very bad at understanding risk and assessing threats. In fact, we are receptive to threats that are Personal, Abrupt, Immoral, and that take place Now (PAIN), but are also inherently bad at understanding abstract threats that could occur in the future but may be an existential threat on a much larger scale.[55] The marriage of the unavoidably human assessment of threats, the new history of international insecurities that followed in a post-Cold War era, and a persistently narrow definition of the referent object of security (i.e. the state), resulted in a quasi-conception of security.

This situation is perfect for the production of danger.[56] It is easy to overstate threats and in doing so, the factors that caused these human insecurities is lost in translation. Consequently, this quasi-conception perpetuates insecurity and fails to provide the security it promises. The war against terror is an instructive example. In the name of providing security to its citizens, states wage war against what is perceived to be

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[52] K Booth, 'Security and self: reflections of a fallen realist' in K Krause and M C Williams (eds), *Critical Security Studies: Concepts and Cases* (1997) London: UCL Press, 83, 104-119.
[53] K Fierke, *Critical Approaches to International Security*, (2007) Cambridge: Polity Press, 4-6.
[54] *Oxford English Dictionary*, s. v. "security" (2015) <www.oed.com> at 26 January 2016.
[55] P Slovic, *The Feeling of Risk: New Perspectives on Risk Perception*, (2010) New York: Earthscan
[56] K Fierke, *Critical Approaches to International Security*, (2007) Cambridge: Polity Press, 99-115.

the greatest threat. However, war also creates terror by inevitably causing civilian deaths and destruction of livelihoods, as well as fuelling rhetoric conducive to violent extremism. Thus, a war against terror is a war against the consequences of the actions of those who declared war in the first place. Surely, this would confuse Thomas Hobbes, had he been alive, because the conventional security provider, i.e. the state, has itself become the main threat. To rise out of this very vicious cycle of insecurity, decision-makers and policy-makers alike essentially need to move beyond what their human nature drives them to do, and adopt a human security evaluation of threats and insecurity.

Scholars in academia, policy-makers, analysts, and journalist alike create the categories of thought that construct how security and threats are perceived. Indeed, we are singing our world into existence.[57] For some reason, terrorism is now portrayed and understood both as an embodied threat, meeting the PAIN criteria, and as an abstract, systemic risk. Before 9/11, democratic governments would respond to terrorist attacks by urging their citizens to carry on as normal, because doing otherwise would be to give in to terror and fear.[58] Today, by overstating the threat of terrorism in general and Daesh in particular,[59] governments actually help terrorists achieve their objectives by instilling fear in their populations. This has spill- over effects on other policy areas such as refugee management, where the majority of Europe and host states in WANA understand migration as a terrorist threat instead of a socio-economic challenge in a human security perspective. Given the stark increase in migration and how public policies fail to accommodate it, the need for a transition to human security is higher than ever.

Human security was first coined in the UNDP's Human Development Report in 1994, to which the late Dr Mahbub ul Haq was the Senior Advisor and chief architect. Security is conceptualised as a universal concern of interdependent nature, and most importantly, it is people-centred. It includes seven categories: environmental-, economical-, health-, personal-, food-, community-, and political security.[60] The irony, of course, is that since the concept was first articulated, even as analysts stress that conventional security is inadequate to address current insecurities,[61] world politics seems to have moved even further away from this idea. A perspective change to human security seems more difficult to achieve in reality, notwithstanding that all the evidence points in this direction and the concept is ready for delivery.

The main difference between the reigning quasi-conception and human security lies in the referent object of security. However, there is also a crucial difference in the tools to achieve security. Human security moves beyond the militaristic toolbox to acknowledge that multiple threats need diverse, holistic and comprehensive solutions. In this sense, a human security approach conforms to resilience. This includes economic, social and environmental considerations. Accordingly, there must be diverse providers of security, ranging from states, international organisations, NGOs, transnational networks, movements and communities, as well as private sector actors.

Chronic Conflict, Violent Extremism and the Syria Crisis

There are several challenges in WANA, the ultimate victims of which are ordinary people; the people of the region always pay the price of conflict. In a recent report, the conflict in Syria has killed 470,000 people, out of which 70,000 died of indirect consequences of war, such as lack of clean water, food, sanitation, health care, proper housing and medicine.[62] The human cost is tremendous; out of the world's nearly 60

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[57] S Smith, 'Singing Our World into Existence: International Relations Theory and September 11', (2004) 48 *International Studies Quarterly*, 499-515.

[58] J Handmer and P James, 'Trust Us and Be Scared: The Changing Nature of Contemporary Risk', (2007) 21(1), Global Society, 121, 128-130.

[59] J-M Guéhenno, 'Destroying ISIS: 10 dos and don'ts', (2016-01-17), International Crisis Group, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/syria-lebanon/syria/op-eds/guehenno-destroying-isis-10-dos-and-donts.aspx> at 10 February 2016.

[60] UNDP, 'Human Development Report 1994', Published for UNDP, New York: Oxford University Press, 22-33 <http://hdr.undp.org/sites/default/files/reports/255/hdr_1994_en_complete_nostats.pdf> at 2 February 2016.

[61] J-M Guéhenno, 'Destroying ISIS: 10 dos and don'ts', (2016-01-17), *International Crisis Group*, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/syria-lebanon/syria/op-eds/guehenno-destroying-isis-10-dos-and-donts.aspx> at 10 February 2016.

[62] SCPR, 'Confronting Fragmentation', (2016-02-11) <http://scpr-syria.org/publications/policy-reports/confronting-fragmentation/> at 12

million forcibly displaced people, more than a third is in WANA, and over 23 million people are in need of humanitarian assistance in Syria and Iraq alone.[63] In addition, violent extremism is on the rise and its nature is still not understood. Conforming to the thesis of a new history, Islam as identity is exploited with previously unseen recruitment success. However, it is not radicalisation of Islam; it is an Islamisation of radicalism, because it is a very well defined and well-known social stratum social stratum that is recruited, and not the majority of Muslims.[64]

Subsequently, the people in the post-Cold War WANA have been subjected to a range of security policies that were crafted based on a quasi-conception of security. They were thus directly counterproductive. Using military means to fight terrorism are often blunt tools that lead to indiscriminate violence against civilians. For instance, when Israel, in its effort to target Hamas operatives in the Gaza war of 2014, used aerial bombs on houses where Hamas operatives were believed to be hiding, innocent civilian casualties were as high as 2,000 over a three month period. This likely produced greater support for Hamas in Gaza, by employing the same security policy that created Hamas in the first instance.[65] In addition, as Daesh provides a security that neither the Iraqi nor the Syrian governments did, it constitutes the lesser of two evils for people in its territories. Allowing repression to the levels known in Assad's Syria, Saddam's Iraq, Mubarak's (and now Sisi's) Egypt, Ben Ali's Tunisia, Qaddafi's Libya, and so on, by endorsing it through strategic partnerships, risks pushing even more people into the extremist camp; it fundamentally overlooks the factors that create crises in which extremism could grow, profit and feed from.[66]

It is against this backdrop that the following three chapters were crafted. The first tries to identify which particular drivers of conflict are WANA-specific. If we are to fight terrorism comprehensively, chronic conflict in the region has to be analysed through a human security framework. We need to understand the why's and how's of conflict before tailored solutions can be deployed. In a situation of protracted conflict, there will be no effective modalities to eradicate violent extremism. The armed conflicts in Yemen, Libya, Syria and Iraq need to be replaced by sustainable peace; any long-term security policy must recognise this. The second chapter addresses one of the most pressing consequences of conflict in WANA, i.e. forced displacement and a protracted refugee crisis. This crisis needs novel strategies and policies, and the chapter proposes the establishment of economic zones where both Syrians and Jordanians are allowed to work. This solution benefits the refugees as well as the host-state population; thus a truly resilience-building policy. The third chapter deals with the cause of the current refugee movements. In Syria, first, there needs to be a political solution where all major stakeholders decide not to wage war. Crucially, this must be followed by a contingency plan for the years to follow. This chapter provides an overview of the Syrian conflict, and outlines which potential steps the future might hold.

February 2016. The number of killed in conflict is mostly measured in battle-related deaths, which does not consider indirect consequences of war and deaths incurred by such causes. However, the UN estimates that "over 250 000 people have been killed", but they stopped counting in August 2014 due to difficulties in verifying data. See UNOCHA, 'About the Crisis' <http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis> at 12 February 2016. Even if 470 000 is a contestable figure, including the 70 000 killed by non-armed consequences of the war puts the number of dead at well over 300 000. Add 18 months of fighting to the UN estimate and a realistic number of killed is closer to 400 000 than 250 000.

[63] A Cordesman, 'The Human Cost of War in the Middle East: A Graphic Overview', (2016-02-03) *Center for Strategic and International Studies* <http://csis.org/publication/human-cost-war-middle-east-graphic-overview> at 9 February 2016.

[64] O Roy, *France's Oedipal Islamist Complex*, (2016-01-07), *Foreign Policy* <http://foreignpolicy.com/2016/01/07/frances-oedipal-islamist-complex-charlie-hebdo-islamic-state-isis/?wp_login_redirect=0> at 10 February 2016.

[65] Amnesty International, 'Families Under the Rubble: Israeli attacks on inhabited homes', (2014-11-05) <https://www.amnesty.org/en/documents/MDE15/032/2014/en/> at 12 February 2016.

[66] J-M Guéhenno, 'Destroying ISIS: 10 dos and don'ts', (2016-01-17), *International Crisis Group*, <http://www.crisisgroup.org/en/regions/middle-east-north-africa/syria-lebanon/syria/op-eds/guehenno-destroying-isis-10-dos-and-donts.aspx> at 10 February 2016.

Forging New Strategies in Protracted Refugee Crises

Sean D. Thomas, Mays Abdel Aziz and Dr Erica Harper

The civil conflict in Syria poses the most complex and immediate humanitarian challenge to the West Asia-North Africa (WANA) region. It is estimated that over half of the Syrian population has now been forcibly displaced, with several millions having fled across borders into neighbouring states. The scale of displacement and the increasingly protracted nature of the Syrian crisis are having a dramatic impact on the ability of host states and international actors alike to respond effectively. Jordan, with its long history of refugee hosting, represents a topical starting point for beginning to understand some of these impacts in greater detail and for conceptualising more effective policy measures.

The history of refugee hosting in Jordan elaborates on the orthodox approach under which refugee crises are managed around the globe: host states, overwhelmingly in the so-called 'global south', provide a protection space while the costs of refugee hosting are borne by the international community. There is a serious flaw with this model, namely whereas the existence of the peremptory norm of *non-refoulement* obliges host states not to return a refugee to territory where they fear a genuine threat of persecution, there is no equivalent onus of responsibility on the international community in the processes of burden-sharing. This dynamic is being witnessed in Jordan today. The Government's Jordan Response Plan has received around 34 percent of the required funding and UNHCR's 2015 appeal has received just 20 percent.[67] Similarly, the World Food Programme had to reduce its levels of service in April by removing 34,000 refugees from its food voucher program and continues to struggle with chronic uncertainty over the longevity of its funding.

This imbalance between protection and burden-sharing is compounded by the fact that, in most host states in the global south, there are restrictions on refugees' ability to enter the workforce, except in very specific cases. Refugees predominantly rely on savings and assistance from humanitarian agencies. As these resources wain, more refugees may seek work in the informal sector, where they are exposed to exploitation, unsafe working conditions and other risks. Growth of the informal sector also has negative implications on the economic development of the host state, by undermining the tax base, distorting spending and compromising the rule of law. This situation feeds the perception of refugees as inherently burdensome on host states.

In recognising these factors, this chapter re-frames the problem and proposes new, more innovative approaches to refugee management. For instance, how might the presence of a large refugee population come to be reconceived as a genuine opportunity for the host state? What scope is there for greater inclusion of refugees in the economic development of host states in ways that would also yield tangible benefits to refugees themselves? Might it even be possible to harness refugees' skills and expertise on a larger scale to effect transformational change vis-à-vis the host state's macroeconomic development goals?

An Overview of Jordan's Economy

Jordan is an upper-middle income economy with a population of 6.5 million and a per-capita GDP of US$ 5,214 as of 2013.[68] Jordan's economy is among the smallest in the Middle East, meaning that it has to rely on limited sources of income. Inadequate supplies of water, oil, and other natural resources mean that Jordan has traditionally relied on foreign aid, public debt, remittances and — more recently — foreign direct investment to support its finances and generate productive economic activity. This reliance on what is

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[67] UNHCR internal data; email from H Daubelcour to S Thomas, 22 June 2015.
[68] Department of Statistics, *Jordan in Figures*, (2013) 3.

known as 'external rents' has led some economists to argue that Jordan's economy is more rent-oriented than growth-oriented. Resource scarcity, and consequent dependence on imports, also means that the economy is highly shaped by exogenous events.

In response, under the patronage of the late King Hussein, the Government commenced vigorous liberalisation reforms aimed at overhauling the economy in the early 1990s, many of which continue today. Such efforts started with a series of structural adjustments to open up strategic sectors to private investors and move away from Jordan's rentierist legacy. Like many of its Arab counterparts, the Government was traditionally a central source of employment, welfare, and subsidies on basic consumer goods. However, the oil recession and massive budget deficit that ensued in the late 1980s provided the impetus to significantly cut back social spending and subsidies on consumer goods, and state-owned enterprises were opened up to private ownership.

Jordan's economic reforms created previously unattainable business opportunities in the country, which marked a serious intent to leap away from the rentier model and into a productive, more economically viable future. Such moves have placed Jordan at the forefront of many regional indicators including human capital, market-friendly policies, and innovation. These strengths are an important aspect of Jordan's development-friendly ethos that reflects a push towards a knowledge-based economy. However, a combination of factors including repeated cycles of economic slowdown, high poverty rates, and a bloated public sector have left Jordan's economic liberalisation project incomplete. Economic realities such as a chronic dependency on foreign aid and remittances, vulnerability to external shocks, a large informal economy and staggering public debt have necessitated state interference, complicating efforts to withdraw from its role as a main driver of economic outcomes.

Today, Jordan's principal economic challenge is leveraging adequate economic activity to cover spending in the context of the country's weak natural resources, small size and proximity to neighbours in conflict. The difficulty is that Jordan's primary sources of economic activity are either economically problematic (rents), in decline (tourism) or inadequate (taxation), whereas there is little mobility in spending patterns because they are driven by factors (natural endowments and neighbourhood) largely outside of Jordan's control.

Jordan's Economy: The Way Forward

Jordan's small size, weak natural resource base and neighbourhood all complicate steady economic growth and full employment, which today are driving increases in poverty[69] and inequality.[70] These shortcomings are well documented. The more difficult task lies in viewing the economy through a positive lens that can identify where avenues for growth lie and the means to pursue it.

Jordan's potential might be best likened to Singapore — also a small state with no natural resources, but one that has made the leap to become a highly prosperous, technology-driven innovation leader. Jordan's first step has been steady and high levels of investment in education. Structural reforms buttressed the development of a high-quality, comprehensive, and accessible education sector and the country is now

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[69] According to a recent World Bank study, 18.6 percent of Jordan's population live below the poverty line at least one quarter of the year, experiencing what is known as 'transient poverty' while 6.3 percent live in permanent poverty: N Mryyan, *Demographics, Labor Force Participation and Unemployment in Jordan*, Economic Research Forum (2012), 4. Based on an "actual food pattern" calculation, Jordan's poverty line is set at JOD 468 per capita per year or JOD 39 per month. An actual food pattern calculation is based on an amount of spending one requires to achieve a certain level of calories intake: United Nations Economic and Social Council for Western Asia *(ESCWA), Measurement and Analysis of Poverty in Jordan* (2014), 8. Transient poverty, as opposed to persistent or chronic poverty, is temporary in the sense that those affected are impoverished for at least one quarter of the year, despite being officially considered as non-poor because their annual per capita consumption exceeds the annual poverty line on average, as opposed to those experiencing persistent poverty: O Obeidat 'Third of Jordan's population lives below poverty line at some point of one year', *The Jordan Times* (Amman), 2 July 2014.

[70] As at 2013, Jordan's Gini coefficient (which measures and assesses income distribution) stood at 36 percent. (United Nations Relief and Works Agency, Jordan at a Glance (2015) < http://www.unrwa.org/where-we-work/jordan> at 7 May 2015.) Besides its grave social consequences, economic inequality is also problematic because it is proven to have a negative effect on economic growth: Organization for Economic and Social Development, 'Inequality hurts economic growth, finds OECD research' (Press Release, 12 September 2014) < http://www.oecd.org/newsroom/inequality-hurts-economic-growth.htm> at 8 May 2015.

identified as having "one of the most advanced and sophisticated educational systems in the Middle East."[71] Today, Jordan's human capital endowment consists of a young and educated workforce, where more than 70 percent of the population under the age of 30[72] and 89.9 percent of women aged 15 and above are educated.[73]

This modern human resource base, coupled with investor-friendly policies, in addition to relative stability and a functioning government and administration, seem to have provided Jordan with the beginnings of an economic competitive edge. The 2011 Global Innovation Index ranked Jordan 41st worldwide (out of 125 countries) and 4th among the regional countries covered by the index. Its place in the chart is particularly noteworthy because it is more than 25 positions ahead of its closest competitor in the region and income group, Tunisia, which came 66th.

Nevertheless, the challenge has been to match Jordan's young and educated workforce to the needs of the economy. At present there are insufficient jobs at the level that educated workers aspire to hold; it is well established that more than 100,000 jobs need to be created annually to accommodate newcomers to the market.[74] Moreover, despite Jordan's research and development infrastructure and scientific research production being relatively high, the competencies available in the Jordanian economy do not link closely enough to the needs of the labour market. In some cases companies still need to reach to the international market to find managers with the required skill sets and experience.

Another ramification of the skill-job incongruity has been a net outflow of talent. A World Bank survey found that 13,000 young Jordanians studying abroad (mostly in the United Kingdom or the United States) do not plan to repatriate after completing their studies.[75] In the same survey, only five percent of Jordanian academics abroad intended to return given the low availability of good job opportunities and poor salary competitiveness on the part of Jordanian universities.[76]

This combination of an outflow of the country's educated, poor labour force participation and the inflow of low-skilled labour, constitute a serious setback for advancing a knowledge-based and technology-driven economy. Jordan's dilemma has been described by some economists as a manifestation of the 'middle-income trap'. This term was coined by Michael Spence to describe economies — usually latecomers to development — that "grow to middle-income levels [then] slow down and [...] even stop growing."[77] Like Jordan, they are unable to compete with low-income countries in terms of providing low-wage labour for producing labour-intensive products, but have not developed the capabilities to compete with advanced economies in terms of exporting technological know-how and knowledge-based goods and services.

The way forward for such economies, Jordan included, is taking the "high road to economic development that involves a process of structural change where production shifts increasingly towards activities with greater value added and knowledge- intensity".[78] Jordan must move away from services (which currently account for over 70 percent of GDP and more than 75 percent of jobs)[79] and towards activities that generate value-added economic activity. At the same time, it needs to navigate a positive shift in the economic landscape by attracting large-scale capital investments. Jordan needs to identify the sectors and projects in which this developmental potential lies and direct factors of production toward it.

One sector that holds long-term developmental potential, and currently suffers from underinvestment, is manufacturing. Establishing and operating a productive, sustainable industrial base has been long hailed for creating jobs, transferring developmental know-how, expanding a state's export base, and offering an

[71] D Roy and W Ireland, 'Educational Policy and Human Resource Development in Jordan' *Middle Eastern Studies*, 28(1) (1992) 178.
[72] International Labour Organization, *Jordan's country profile*, <http://www.ilo.org/beirut/countries/ Jordan/lang--en/index.htm> at 15 March, 2015.
[73] R Husseini 'Almost 90% of women over 15 educated', *The Jordan Times*, (Amman) 4 March, 2015.
[74] K Melkawi, 'Young Jordanians look Abroad for Better Jobs, Higher Pay,' *The Jordan Times* (Amman) 12 August, 2013.
[75] A Awad, 'Jordan's Economy in 2015: Challenges and Opportunities', *Phenix Center for Economic and Informatics Studies* (2015) 23.
[76] ibid 24.
[77] S Michael, The Next Convergence: The Future of Economic Growth in a Multispeed World (2012), 100.
[78] United Nations Economic and Social Council for Western Asia (ESCWA), *Measurement and Analysis of Poverty in Jordan* (2014), 25.
[79] United Nations Development Program. *Jordan Poverty Reduction Strategy*, Final Report (2013), 31.

invitation into the competitive global economy. Jordan has taken deliberate steps to open up this sector. Its Investment Promotion Law (IPL), passed in 1995, was specifically designed to attract investors to 13 'vital' sectors, including agriculture, education, pharmaceuticals, and tourism.

A critical part of Jordan's investment promotion framework has been the allocation of public land to create Qualified Industrial Zones, Development Areas, Free Zones, and the Aqaba Special Economic Zone. Again, the aim is to attract foreign investment, increase employment, advance high-value economies like manufacturing, and facilitate the transfer of technology and skills. A further aim is to more equitably distribute economic activity; around 80 percent of Jordan's economic activity is concentrated in Amman, despite it housing only 40 percent of the population, creating skewed opportunities and living standards.[80]

Special laws and regulations are applied in these zones, including exemptions (alleviating customs and taxes) and incentives relating to capital ownership and facilities.[81] The laws also offer equal treatment to both Jordanian and non-Jordanian investors, thus allowing foreign investors to own any project in full or part, or to engage in any economic activity in the Kingdom, with the exception of some trade and contracting services which require a Jordanian partner.

Despite these serious attempts to open up Jordan as a manufacturing hub, the gains anticipated have not come to fruition. While the Aqaba Special Economic Zone has enjoyed fast and steady growth, the other industrial parks — particularly in the north of the country — operate well below capacity. There are several explanations for weak foreign capital investment, including the conflicts in neighbouring Syria and Iraq, Jordan's small coastal access, and lack of access to fresh water. Another reason is the absence of a large, willing and low-cost labour force.[82]

At this point, it is important to highlight the enormity of the challenge faced. To develop a manufacturing hub, Jordan must be able to compete with Asian economies, which enjoy stability, plentiful natural resources, coastal access and, most importantly, a large, appropriately skilled and low-cost workforce. On top of this, in the globalised market, manufacturing clusters geographically (a process called spatial economies of scale in manufacturing, or economies of agglomeration). Once businesses are established, there is a range of economic incentives for other businesses to locate proximately. This process leads to large manufacturing 'clusters', such as the Pearl River Delta in Guangdong province, China.

> ... If other firms are producing manufactures in the same location, that tends to lower the cost for your firm. For example, with lots of firms doing the same thing, there will be a pool of workers with the skills that your firm needs. And there will be plenty of firms producing the services and inputs that you need to function efficiently. Try moving to someplace where there are no other firms, and these costs are going to be much higher even if the raw labour is much cheaper.[83]

The flipside is that establishing a new manufacturing cluster is very difficult. The costs on investors to enter a new geographic space are extremely high; these costs relate to risk, establishing new market access, a workforce and access to business chain support. Jordan needs to offer investors something more or something different. However, if such markets can be tapped into, the possibilities are enormous:

> ... In order to break into global markets for manufactures, it is necessary to get over a threshold of cost-competitiveness. If only a country can get over the threshold, it enjoys virtually infinite possibilities of expansion: if the first firm is profitable, so are its imitators. This expansion creates jobs, especially for youth.[84]

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[80] B Al-Zu'bi, 'Investment Mapping and SMEs attraction' *Jordan Investment Board* (2013), 4.

[81] 'Free Zones', *Jordan Investment Board* 2015 at <http://www.jib.jo/BusinessandInvestment/WheretoInvest/FreeZones/tabid/270/language/en-US/Default.aspx?SkinSrc=%5BL%5DSkins/jiben/printableSkin&ContainerSrc=%5BG%5DContainers/_default/No%20Container> at 20 April 2015.

[82] The northern industrial parks have also suffered as a result of the remoteness of site locations, high costs of production (such as expensive electricity bills) and red tape concerning the legal aspects of investment.

[83] P Collier, *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It* (2007), 82.

[84] ibid, 83.

Jordan thus finds itself at a cross-road. Its aspiration to become a tech-led innovation hub is logical given its asset base. But its heavy investment in education, coupled with other factors beyond its control, has blocked another potential opportunity to break free of the middle-income trap. There is also some degree of policies operating at cross-purposes that further complicates the rise of a manufacturing sector. Reducing unemployment is at the top of the government's policy agenda. This is understandable — high unemployment drives reduced living standards, civic discontent and imposes a huge cost in terms of national productivity potential. This dilemma will be revisited later in this chapter, where a set of policy recommendations for how Jordan might solve these challenges is presented.

The impact of the Syrian refugee crisis on the Jordanian economy has become a politically charged question at both the domestic and foreign policy levels. While it seems reasonable to surmise that the Syrian crisis and consequent refugee influx have contributed to weakened macroeconomic performance, such a conclusion is difficult to draw from an evidential base due to primary data shortages and the methodological difficulties establishing causation. Some proxy indicators reveal negative changes to the national economy since 2011. For example, labour participation rates among Jordanians have remained constant, but the rate of unemployment increased from 14.5 percent in 2011 to 22.1 percent in 2015.[85]

Second, rising imports — mainly foodstuffs and oil products (the latter principally due to the break in the Egyptian gas pipeline) — have contributed to a worsened trade balance deficit; the deficit grew from JOD6.8 billion in 2010 to JOD11.6 billion in the 2014 forecast.[86] Likewise, net public debt has grown from around US\$ 32.6 billon (90.6 percent) at the end of 2014 compared to US\$ 29.1 billion (86.7 percent) at the end of 2013, surpassing the legal 60 percent mark.[87] In June 2013, the ratings agency Moody's downgraded Jordan's credit rating to B1, an action largely driven by the country's increased sovereign debt to GDP ratio. Other indicators are more positive. Jordan enjoyed 3.5 percent GDP growth in 2014, despite a decreased competitive rating, wars on two borders and cuts to major trade routes.

The extent to which these indicators can be attributed to the deterioration in regional security, regional economic performance in the wake of the global financial crisis or specifically to the increased presence of Syrians requires specific correlation- regression analysis beyond the scope of this chapter. In what follows, we outline the most salient direct and indirect costs related to hosting Syrian refugees before analysing the key economic and security challenges facing the Kingdom in the context of the Syria crisis.

Direct and Indirect Costs of Refugee Hosting

The Syrian presence in host communities has become synonymous with terms like overcrowding, stolen jobs, and unequal burden sharing. Such statements are not necessarily misplaced; however, they almost certainly obscure the full reality of certain benefits as well as costs. It is not contested that Jordan's policy to greatly stem the flow of refugees into the country since mid-May 2013 is at least somewhat connected to the costs assumed by the local economy, public discontent and security concerns.[88] But from the perspective of the thousands of displaced Syrians facing violence, poverty and rights abrogation, there is an urgent need to shift the debate away from rhetoric and towards an objective, evidence-based investigation that can facilitate informed policy-making, targeted programming and requisite donor support. This discussion must be grounded in an objective and comprehensive analysis that takes into account both the costs and benefits associated with the refugee population.

As noted previously, Jordan is currently home to around 628,000 Syrian refugees registered with the United Nations. After taking into account Syrian guest workers who were living and working in Jordan prior to 2011,

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[85] S E Stave and S Hillesund, *Impact of Syrian refugees on the Jordanian labour market*, International Labour Organisation & FAFO (2015).

[86] MOPIC, *Needs Assessment Review of the Impact of the Syrian Crisis on Jordan*, Report of the Host Community Support Platform (2013).

[87] 'Cabinet endorses draft 2015 budget with JOD 688m deficit', *The Jordan Times*, (Amman) 1 November 2014.

[88] T al-Samadi, *Jordan Shuts Down Border Crossings From Syria* (2013), Al Monitor <http://www.al-monitor.com/pulse/security/2013/06/jordan-closes-border-crossings-syria.html> at 10 May 2015.

the total number may be as high as 1.4 million.[89] The bourgeoning population has cost the government and the international community an unprecedented amount in direct monetary payments, food and non-food items and essential infrastructure.

The crisis has also raised other important externalities, or spill over effects, that are more difficult to quantify. Refugees have had a significant impact on the demographic makeup of the state, compounding existing pressures such as high unemployment, weak institutions and natural resource deficits, as well as modifying social norms and customs. Overcrowding is a serious problem in hospitals and schools, and the pressure on public resources such as water, electricity and waste management may have long-term implications on food and water security. More difficult to calculate is the intangible social costs, for example the cost to a child of having their lesson time reduced to accommodate a split shift of class time.

At the same time, it must be acknowledged that refugees contribute to local economies by bringing new skills and resources, as well as increasing production capacity and consumption demand. Such forces can stimulate an expansion of the host economy. Hence any accurate calculation of the refugee impact must take into account the positive impacts at both the macro-economic level (GDP growth, public revenues, foreign assistance, foreign reserves and the flow of Syrian investments to Jordan) and the micro-economic level (changes in retail, trade and other consumer sectors).

There have been few serious attempts to quantify the costs of the refugee influx. This has not, however, prevented speculation that has been widely reported in the media. In response, this chapter provides a framework for conceptualising the impacts arising from the refugee influx comprising direct and indirect costs and benefits in four areas: economics, environment, social justice and human security. Below, we analyse some of the key economic and security challenges extending from the Syria crisis as a platform from which to conceptualise the kinds of policy approaches required to buttress the current situation.

Risk Implications of the Status Quo

The Expanding Informal Economy

It is almost impossible to provide an accurate quantification of the size of the informal economy in Jordan, or the wider region. In 2010, Jordan's informal economy was estimated to constitute 20-25 percent of total economic activity in the country.[90] What can be discerned with greater certainty is that this informal economy is growing; moreover, there is a direct connection between this growth and the current approach to refugee working rights at the policy level.

Jordan is not party to the 1951 Refugee Convention and its 1998 Memorandum of Understanding with UNHCR, while highlighting the need for refugees to be able to work, does not include provisions for the protection of formal working rights. The implication is that "only about 10 percent of employed Syrians have obtained formal work permits, and practically all Syrian refugees working outside camps do not have work permits and are as such employed in the informal economy and outside the bounds of Jordanian labour law."[91] This situation is likely to be further exacerbated as the onset of international donor fatigue becomes more pronounced and refugees have no alternative but to resort to informal income-generating activities.

Syrians working in Jordan prior to the onset of conflict were mainly engaged in construction, wholesale and retail trade, manufacturing, agriculture, forestry, transportation and storage. Employment of Jordanian workers in these sectors in 2011 was low, with approximately seven percent working in construction and two percent in agriculture and forestry, for example. Most Jordanians were employed in public administration

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[89] MOPIC, *Jordan Response Plan for the Syria Crisis 2015*, Report of the Jordan Response Platform (2014).
[90] UNDP, *The Panoramic Study of the Informal Economy in Jordan* (2013), <http://www.jo.undp.org/ content/dam/jordan/docs/Governance> at 18 November 2014.
[91] S Stave and S Hillesund, above n. 19.

and defence. This is supported by survey evidence that shows higher levels of unemployment among Jordanian youth, who are able to afford to wait until the right type of position (in public administration or defence) arises.[92] Today, the distribution of employment of Jordanian nationals across the same industries is almost exactly the same as in early 2011. For Syrians living outside of camps, however, employment in the construction sector has risen significantly and now represents the principal location of employment for this demographic.

Employment of Syrian refugees has also increased in other areas, including accommodation and food services. Such increased economic activity has prompted accusations that Syrians are filling positions that would otherwise have gone to Jordanian nationals. A recent report conducted by the ILO and Fafo suggests that there may be some truth to this:

> [T]he share of total Syrian refugee workers in the construction industry has increased quite substantially, indicating that Jordanians might have been crowded out of this industry by Syrians to some extent. Similar signs of out-crowding can be found in the wholesale and retail trade industry [...].[93]

On the other hand, it is important to recognise that other factors, for example reduced cross-border trade owing to the difficulties around former trade routes through Syria, have also impacted the labour market in complex ways. Causality, therefore, cannot be attributed to refugees without further research.

It is important to recognise that the informal economy is not simply a site of illegal activity. There are positive features that can be overlooked for reasons of political interest or social stigma. For example, the additional supply of goods and services and intensified competition can be a positive factor from the perspective of the consumer.[94] Equally, the informal economy is a site of vital livelihoods activity for many of the poorest and most disadvantaged people in wealthy and developing states alike. However, there are also significant risks for individuals, businesses and the state that are associated with a large informal economy, some of which are already visible in Jordan. Moreover, there are serious implications for the state, a decreased tax yield and the concomitant effects on social welfare systems being among the most salient. As Schneider puts it:

The fact that necessary public investment (e.g., infrastructure) cannot be carried out because of a lack of finances resulting from tax evasion, results in negative official economic growth. Public goods cannot be supplied to the desired quantity, and the aggregate supply of the economy falls. As the financial situation deteriorates, [informal] economic activity is viewed increasingly negatively.[95]

A further risk associated with an expanding informal economy is the impact it can have on public sector spending. This can lead to a situation where the level of welfare expenditure cannot be upheld without raising taxes, thereby resulting in further increases in the informal economy because such work becomes more attractive. This can create a "vicious circle of further increase in the budget deficit or tax rates, additional growth of the shadow economy, and gradual weakening of the economic and social foundation of collective arrangements."[96]

Threats to Inter-Community Relations

The potential for increased competition over resources (broadly defined) to undermine refugee-host community relations is a risk associated with all large scale, protracted displacement situations.[97] The geography of Syrian displacement means that host communities in Jordan's northern governorates, particularly in

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[92] ibid 53.
[93] ibid 6.
[94] Schneider and Enste, above n 19.
[95] ibid, 160.
[96] ibid 2.
[97] G Loescher et al (eds.), *Protracted Refugee Situations; Political, Human Rights and Security Implications* (2008); J Milner, *Refugees, the State and the Politics of Asylum in Africa* (2009).

Mafraq and Irbid, have been disproportionately affected. Many municipalities in these governorates were struggling to provide basic services such as solid waste management and water and sanitation services prior to the onset of the Syrian crisis. The arrival of refugees has exacerbated these challenges: in some cases the number of Syrian refugees now living in the municipality is equal to the number of Jordanian residents.[98] Further, the north of Jordan is characterised by a prevalence of 'high' and 'severe' levels of vulnerability among refugee households.[99] This, in combination with the fact that many locals are also living in vulnerable circumstances, has put relations between Syrians and Jordanians under considerable strain. As the crisis becomes more protracted it is important to acknowledge the possibility of security risks emerging in the context of increasing social discontent, as explored below.[100]

i) Employment Competition

As discussed earlier, there is some indication that Syrian refugees are 'crowding out' Jordanian workers in certain sectors, although there is also evidence that Syrians are competing more with other migrant workers as opposed to nationals. Nonetheless, the perception that Syrians are taking jobs from Jordanians is widespread, and this is particularly pertinent in the context of social cohesion; 95 percent of Jordanian workers surveyed by ILO-Fafo deemed that either to some extent or to a great extent Syrians are in engaging in work that would otherwise have gone to Jordanians.[101] This is complemented by the widely held perception, among both refugees and nationals, that Syrian refugee workers are being exploited by their employers because they have little choice but to accept longer hours and lower wages. This is perceived by a majority of Jordanians to be exerting downward pressure on wage levels, thus undermining refugee-host community trust.[102] For example, 29 percent of Syrian refugees in employment outside of the camps feel that they have to 'watch out' for Jordanians. Likewise, over 40 percent of Jordanian workers believe that Syrians do not contribute to the Jordanian economy or to local communities, and 80 percent perceive Syrian refugees as a "threat to national security and stability".[103]

ii) Increased Cost of Living

Alongside intensified competition for jobs, increases in living costs has been identified as one of the most prominent changes in the northern governorates since the onset of the Syrian crisis.[104] In particular, there is a significant shortfall in available housing units; the Norwegian Refugee Council estimates that 90,000 new housing units are required to adequately accommodate Syrian refugees outside of camps and that 78 percent of unmet shelter demand is located in the Irbid, Mafraq and Amman governorates.[105] This shortage has led to competition for affordable housing between vulnerable Syrians and Jordanians; the price of rented accommodation has increased by up to 200 percent in areas hosting large numbers of refugees.[106] According to a REACH survey, 95 percent of Syrian and 87 percent of Jordanian households agreed or strongly agreed that rises in housing costs had led to discontent in their community.[107]

iii) Water, Sanitation and Hygiene

Although Jordan was experiencing difficulties relating to the availability of water prior to 2011, the presence of Syrian refugees has undoubtedly exacerbated the situation. Ninety-four percent of Jordanians surveyed

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[98] UNDP, *Municipal Needs Assessment Report* (2014).
[99] UNHCR, *Vulnerability Assessment Framework; Baseline Survey* (2015), 15.
[100] REACH, *Social Cohesion in Host Communities in Northern Jordan*, Assessment Report (May 2015).
[101] S Stave and S Hillesund, above n 19, 110 – 112.
[102] Mercy Corps, *Mapping of Host Community-Refugee Tensions in Mafraq and Ramtha, Jordan* (May 2013); REACH, above n 34.
[103] S Stave and S Hillesund, above n 19.
[104] REACH, above n 34.
[105] Norwegian Refugee Council, *In Search of a Home: Access to Adequate Housing in Jordan* (2015).
[106] MOPIC, above n 20, 20.
[107] REACH, above n 34, 5.

by ILO-Fafo believed that Syrian refugees exert pressure on Jordan's water and energy resources.[108] In the case of water at least, there is some evidence to support this. REACH reports that 40 percent of Jordanian households and 29 percent of Syrian households identified increased shortages in water as the most prominent change experienced in the community since the beginning of the crisis.[109]

Water shortages are compounded by a lack of capacity at the municipal level to deal with the increased demand for sanitation and hygiene services. Solid waste management is a principal concern for local municipalities. Shortages of and quality depreciation in vital equipment, such as garbage trucks and compressors, are preventing authorities from providing acceptable levels of service. In parts of Irbid, daily waste collection was approximately 300 tonnes prior to the Syria conflict, increasing to approximately 500 tonnes daily today. In Mafraq, the municipality was forced to request assistance from the army to deal with additional waste. This has had a negative impact on the frequency of waste collection in municipalities, which in turn poses risks to public health and community relations.[110]

Other sources of stress on refugee-host community relations include diminishing levels of healthcare service provision and the spread of new diseases, as well as those previously eradicated.[111] Perceptions relating to disease are connected to other vectors of social tension, such as overcrowded schools, water shortages and insufficient municipal capacity to deal with increases in solid waste.[112] Similarly, the emphasis on refugees in the early stages of the operation, rather than approaching assistance in parallel with the needs of vulnerable Jordanians, had a divisive effect that can still be seen today.[113] The implication is that although many of the challenges outlined above pre-date the Syrian crisis, it is easy to connect the refugee population with hardships currently being experienced — a feeling that is particularly discernible among young Jordanian men.[114]

Violent Extremism in the Context of the Syrian Crisis

There is an emerging body of literature highlighting the risk that terrorist organisations may seek to exploit (particularly protracted) refugee situations.[115] The rise of violent extremist groups, such as the so-called 'Islamic State' organisation (hereafter Daesh) and Jabhat al-Nusra, amidst the turmoil in Syria and Western Iraq is generating fears of radicalisation in neighbouring states, both among nationals and displaced populations. Such organisations often have access to significant resources that they can mobilise to gain the trust and support of vulnerable communities. For example, in Lebanon, Jabhat al-Nusra provided aid and support to refugees in response to the shortfalls in international aid, which resulted in increased interaction between refugees and violent extremists, and an increase in radicalisation amongst the former.[116]

It is clear that one of the principal ways Daesh has been able to recruit so heavily and quickly is because it can afford to pay generous salaries.[117] While there is no inherent or evidential link between poverty

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[108] Moreover, 79 percent of Jordanians and 60 percent of Syrians "agreed that water shortages have led to discontent in their community"; REACH, above n 27, 3-4; S Stave and S Hillesund, above n 19, 112.

[109] REACH, above n 34, 3-4.

[110] A large majority of households surveyed (69 percent) agreed or strongly agreed that the build-up of municipal waste has caused discontent in their community; REACH, above n 34, 4.

[111] Discussions with municipal representatives during Chatham House consultation meetings in Amman, Jordan, entitled: *The Role of Local Government in Addressing the Impact of Syrian Refugees*, subject to the Chatham House Rule (2-3 June 2015).

[112] REACH, above n 34.

[113] S Stave and S Hillesund, above n 19, 112-113.

[114] Mercy Corps, above n 36.

[115] P Kagwanja and M Juma, 'Somali refugees: Protracted exile and shifting security frontiers' in G Loescher et al (eds), *Protracted Refugee Situations; Political, Human Rights and Security Implications* (2008), 214; D Milton, M Spence and M Findley, 'Radicalism of the Hopeless: Refugee Flows and Transnational Terrorism' (2013), *International Interactions: Empirical and Theoretical Research in International Relations*, 39 (5), 621-645.

[116] M Abou Zeid et al, *Youth Marginalisation and Radicalisation Amid the Syrian Crisis* (2015), audio recording <http://carnegie-mec.org/2015/03/19/youth-radicalization-and-security/i58g> at 2 August 2015.

[117] In 2014, Daesh was forecasted to be mobilising up to US$ 6 million per day from oil sales, other criminal enterprise (including the sale of artefacts) and private donations. 'Jihadis with money to burn; inside the Isis financial empire', Newsweek, 14 November 2014, vol. 162 (46); the Economist, *Where Islamic State gets its money* (2015), <http://www.economist.com /blogs/economist-explains/2015/01/economist-explains> at 10 August 2015.

and radicalisation, it is important to acknowledge that destitution can be a factor in certain contexts.[118] Limited socio-economic opportunities, combined with trauma, personal and community grievances and isolationism are established push factors, all of which can be discerned to varying degrees within Syrian refugee communities.[119]

In summary, Jordan faces a complex mix of economic and security challenges related to the increasingly protracted refugee situation. Increased growth of the informal economy undermines Jordan's economic resilience and poses risks to both Jordanians and Syrians. While it is unlikely that tensions between Syrian and Jordanian communities in the northern governorates will lead to any kind of widespread violence in the immediate term, there is evidence that inter-community relations are deteriorating as a result of competition for employment and affordable housing, and diminished levels of basic services such as waste management. Likewise, it is important to acknowledge the discourse that links displacement with domestic and regional instability, and with broader risks for extremist violence. Against these challenges, it is clear that bold and innovative policy measures need to be developed. Such thinking must take into account Jordan's need to bolster economic development, the protection needs of the Syrian refugee population, as well as the imperative of domestic conflict containment and peace consolidation at the regional level.

Forging New Strategies in Protracted Host Situations

The year 2014 saw the number of asylum-seekers, refugees and internally displaced persons exceed 50 million globally — more than at any point since the end of the Second World War.[120] The international refugee regime (the norms and institutions that have evolved to coordinate international responses to refugee crises) is arguably not equipped to deal with the scale and complexity of such displacement. This regime was established in the wake of the Second World War as states grappled to address mass displacement in Europe. Likewise, the UN refugee agency was created with a temporary mandate "to address the situation of a particular group of people at a particular juncture of history."[121] While UNHCR will no doubt continue to exist for the foreseeable future, it is increasingly recognised that certain norms and practices will need to evolve to address displacement in the world today.

The framework for addressing refugee crises can largely be seen as a partnership whereby "donors write cheques to support humanitarian relief and host countries of first asylum are expected to provide the territory on which the refugees are hosted."[122] In practice, however, the lack of binding rules on burden sharing to balance the peremptory norm of non-refoulement means that this model is inadequate, particularly in protracted situations.[123]

In the case of asylum, the refugee regime sets out a strong normative and legal framework, underpinned by the principle of non-refoulement, whereby states must refrain from sending a refugee back to a state in which he or she faces a well-founded fear of persecution. In contrast, in the case of burden-sharing, the regime provides a very weak normative and legal framework, setting out few clear norms, rules, principles, or decision-making procedures.[124]

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[118] D Sterman, 'Don't Dismiss Poverty's Role in Terrorism Yet', *Time*, 4 February 2015; D Milton, M Spence and M Findley, 'Radicalism of the Hopeless: Refugee Flows and Transnational Terrorism' (2013), *International Interactions: Empirical and Theoretical Research in International Relations*, 39 (5), 621-645.

[119] Letter from the Permanent Representative of Jordan to the United Nations to the Secretary General of the United Nations Security Council, 27 March 2015 <http://www.refworld.org/docid/552b706c4.html> At 1 June 2015; K Shaheen, 'Food aid cuts 'making refugees targets for Isis recruitment'', *The Guardian*, (London) 13 August 2015.

[120] UNHCR, *Global forced displacement tops 50 million for first time in post-World War II era* (2014), News Stories <http://www.unhcr.org/53a155bc6.html> at 16 August 2015.

[121] G Loescher, A Betts and J Milner, *UNHCR: The Politics and Practice of Refugee Protection* (2013), 133.

[122] P Collier and A Betts, 'Rethinking Refugees: Syrian Refugees as an Opportunity for Development and Security', *International Affairs, forthcoming autumn* 2015.

[123] G Loescher et al (eds.) *Protracted Refugee Situations; Political, Human Rights and Security Implications* (2008).

[124] A Betts, *Forced Migration and Global Politics* (2009), 87.

The situation might be best understood as host states proving a global public good.[125] Like other public goods, some states are able to 'free ride' on the provision of refugee protection by host countries, but are not be compelled to adequately share the associated burdens. Today, this is manifesting in a "north-south impasse"[126], whereby wealthy developed states (predominantly in the so-called 'global north') are inclined to scale-back aid once the urgency of an emergency situation has worn off. Host states (in the so-called 'global south') are left to struggle on alone as the crisis becomes more entrenched.

Beyond a Protection-Centric Policy Framework

Today, more than half of refugees globally live in protracted refugee situations (PRS).[127] In the WANA region, the Afghan, Iraqi and Palestinian refugee crises in particular remain without durable solutions, posing long-term challenges for host states, donors and the wider region, but particularly for the displaced themselves. It is looking increasingly likely that the Syrian refugee crisis will also develop into a PRS as the five-year anniversary approaches. The prevalence of PRS is testing the resolve of international donors and host states around the world, as well as the capacity of humanitarian agencies to respond effectively. Funding shortfalls are increasingly common. In Jordan, the government's Jordan Response Plan (JRP) has received approximately 34 percent of its required funding,[128] while UNHCR is also experiencing a notable shortfall with just US$ 58 million, or 20 percent, of its US$ 289 million 2015 appeal having been received.[129]

It is clear that new ways of conceptualising refugee management need to be devised that respond to the priorities of host states, the international community and refugees, as well as give way to more sustainable responses that draw upon refugees' capacities for self-sufficiency. Protection-centric approaches, which are rooted in the notion of host states acting as good international citizens, are proving insufficient in the current situation. Countries such as Jordan are conspicuously aware of the importance of offering shelter to individuals fleeing conflict — it is a bedrock principle of the Hashemite tradition that they have exercised for more than 65 years, accommodating large numbers of Palestinians, Iraqis and most recently, Syrians. Host states need more and better options to encourage them to keep their borders open. Phrased another way, if refugees are unable to return home, and the international community is unwilling to host them in large numbers or finance the cost of hosting (at least over the long-term), then states must be offered solutions that work for, or are at minimum not contrary to their national interest. This implores a transition to approaches that look more closely at host state needs and priorities in the first instance and that create space to craft responsive solutions.

In the case of Jordan, these interests include maintaining security, offsetting the cost of refugee hosting born by the government and other sectors, and ensuring that existing economic challenges are not exacerbated. Moreover, if the starting point is host state interest, refugee management must be approached through a lens of temporary protection followed by eventual repatriation. Jordan's economic and demographic profile means that long-term integration is not a policy option save in exceptional circumstances. From a practical standpoint, this is also the most likely scenario. Statistically, conflicts in middle-income countries (like pre-war Syria) do not last much longer than a decade and the Syrian conflict is now in its fifth year.[130] The evidence indicates that a minority of refugees locally integrate, and even fewer are resettled; the vast majority return. Between 1998-2008, for every one resettled refugee, fourteen were repatriated. This is also consistent with the aspirations of the displaced; data indicates that refugees overwhelmingly preference returning to Syria when security conditions improve.[131]

[125] A Suhrke, 'Burden-Sharing During Refugee Emergencies: The Logic of Collective Action Versus National Action' (1998), *Journal of Refugee Studies*, 11 (4), 396-415.
[126] A Betts and G Loescher (eds), *Refugees in International Relations* (2011), 61.
[127] P Collier and A Betts above n 56.
[128] MOPIC, *Jordan Response Plan 2015 Funding Update* (2015).
[129] UNHCR internal data; email from H Daubelcour to S Thomas, 22nd June 2015.
[130] P Collier, 'If you really want to help refugees, look beyond the Mediterranean', *The Spectator*, (London) 8 August 2015.
[131] R Al Jazairi, 'Transitional Justice in Syria: The Role and Contribution of Syrian Refugees and Displaced Persons', *Middle East Law and Governance*, forthcoming 2015.

It is often taken for granted that refugees are, by definition, dependent on the host state and international humanitarian aid, which in turn drives the perception of them as a burden. The debate over the phenomenon of dependency and whether refugees constitute a burden or a boon is not new.[132] But political discourse in host states is typically inclined towards the burden narrative. As a result, policies that restrict refugees' freedom of movement and freedom to seek employment, based on fears for national security and stability, is the norm rather than the exception. In the WANA region in particular, the Palestinian experience has led to considerable social stigma and sensitivity concerning the label of 'refugee'. But this relationship of dependency between refugees and their host state and donors is not necessarily accurate or inevitable. While all require protection, and some do need comprehensive material and other forms of support, refugee communities also bring with them a diversity of education, wealth, skills, expertise and entrepreneurship, which is often neglected under traditional responses to refugee crises.[133]

The question thus becomes: how might Jordan raise policies to mitigate the negative impacts associated with refugee hosting, whilst simultaneously supporting its long- term security and economic policy goals, as articulated in the Jordan 2025 National Vision and Strategy? One clear option is to view refugees as a structural economic opportunity; to harness their skills and expertise as an asset for private sector growth, with a view to creating both a self-sufficient population and effecting macroeconomic policy goals.

Towards New Opportunities

In the first section of this chapter, it was explained that Jordan's economic strategy has been to invest in a strong education sector geared towards becoming a hub for technology-driven innovation. Having become caught in what is known as the 'middle income trap', economists have proffered the establishment of large-scale manufacturing. Significant progress has been made; economic and industrial zones have been established throughout the country, complemented by investment-friendly policies and a clear legislative and regulatory framework. There are still, however, obstacles to overcoming the entry barriers to global trade markets. Jordan must compete, for example, with Asia, which enjoys stability, market access (through its coastlines), plentiful natural resources and a large, low-cost labour force. Jordan cannot do much to improve its geographic market access (although this is becoming less important in the globalised economy), the stability of its neighbours, or its natural resource base. It needs something more or something different to generate the conditions to establish a manufacturing cluster. But Jordan does have two important assets. First, the country represents a beacon of stability in a very unfriendly neighbourhood. The strategic importance of this, both to the region and the West, cannot be understated. There are great incentives in play to promote Jordan's stability, and these include investing in its economic potential. Second, Jordan is providing a global public good in terms of refugee hosting. No country wants to see refugees suffering; donor governments do not, however, want to have refugees on their soil in large numbers.

From a humanitarian perspective and in terms of global stability, this state of affairs is highly disconcerting. But it does bode well for Jordan breaking into and establishing a manufacturing cluster. As discussed previously, a principal reason attributed to the under-utilisation of some of Jordan's development areas is the lack of complementarity between the labour force required and local labour market dynamics. The refugee population, which is concentrated in Mafraq, constitutes an immediately available, affordable and appropriately skilled set of workers. UNHCR registration data indicates at least 21,208 Syrian refugee builders and the ILO has identified that around 25 percent of refugees residing outside of camps are working in the Jordanian construction industry.[134] Within the Syrian refugee community there is also a range

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[132] G Kibreab, 'The Myth of Dependency among Camp Refugees in Somalia 1979-1989', *Journal of Refugee Studies*, (1993), vol. 6 (4), pp. 321-349; R Zetter, 'Are Refugees an economic burden or benefit?' (2012), *Forced Migration Review*, Issue 41.

[133] Betts et al, *Refugee Economies; Rethinking Popular Assumptions*, Report of the Humanitarian Innovation Project (2014).

[134] S Stave and S Hillesund, above n 19, pp.53; while the employment of Syrians in the manufacturing sector has displaced Jordanians (up to 30% of Jordanians in the sector according to the ILO) there has been less displacement in, for example, the manufacturing sector where migrant workers predominately work. Identifying the sectors where Syrian involvement leads to minimal Jordanian labour displacement, like manufacturing, is crucial to mitigating the negative impacts of informal employment.

of transferable skillsets that could be attractive to light manufacturing and related industries, including electronics, mechanics, mechanised construction, handicrafts and carpentry.

Would this overcome the issues of neighbourhood, natural resources and market access for businesses to invest in Jordan? The answer is possibly yes, if it was perceived as a sufficiently good profit opportunity. Returning to the idea of Jordan providing a global public good by hosting refugees, there may be a strong market for the sale of 'safe' products — products that are manufactured by refugees, therefore providing them with a livelihood while they are sheltering from conflict. Effective marketing would capitalise on consumers' complex feelings towards refugees — their desire to assist, but at the same time not wanting to host them at the same rates as countries like Jordan.

Investing in Jordan may also be seen as a profit opportunity to companies looking to position themselves prior to a reconstruction boom in a post-conflict Syria, or for companies forced to leave Syria and that wish to resume operations, for instance:

- Manufacturing companies that identify a marketing opportunity in goods produced using Syrian refugee and host community labour. Such opportunity is most likely to resonate with companies with active Corporate Social Responsibility programming (such as IKEA, UNIQLO, Benneton, and French Bel Group) and with markets in European countries where public dissatisfaction towards government refugee containment policies is rising.

- Energy, manufacturing and pharmaceutical companies forced to leave Syria that might view re-establishing in a similar but stable operating environment as strategically attractive.

- Reconstruction industries seeking to secure a foothold in a post-conflict Syria. This particularly relates to semi-refined and refined raw materials industry, but may extend to research and development; the scale of Syria's reconstructive needs coupled with water and energy scarcity, will call for new technologies.

If such incentives were still not sufficient to encourage firms to establish operations in Jordan, other vested stakeholders might be encouraged to play a role. Donor governments need to address the humanitarian situation, but would prefer for this to be in the form of something more constructive and sustainable than continuing aid. As part of a renegotiated aid package, they might offer more attractive free trade or market access agreements, increasing the appeal of Jordan to investors.[135]

Europe, who is battling its own refugee crisis, is an obvious stakeholder in this regard.[136] International financial institutions (IFIs) — the World Bank and International Monetary Fund — might also play a role through loans to offset manufacturing development or subsidise plant establishment costs. Accessing such loans and financial development assistance has long been problematic for Jordan due to its middle-income status. There is increasing recognition among donors, however, of pursuing links between development

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[135] P Collier, *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It* (2007), 58.

[136] Free market access is also made possible by the fact that Jordan is the only Arab state to have signed an Association Agreement with the European Union, aimed at establishing free trade over the next 12 years, in conformity with World Trade Organization rules. For such a model to work, the Association Agreement between Jordan and the EU mentioned above would need to be upgraded. The existing agreement focuses mostly on bilateral trade. While the free export of goods is a key component of economic integration, Jordan's economy is also in need of private investment flows. A legal framework that facilitates such flows and protects all involved must be put in place to minimize the risks for participating companies. Importantly, the EU's rules of origin requirement need to be reconsidered in order to allow for Syrian labour to take part in Jordan's industrial sectors and for their exports to freely reach European markets. Also, given that Jordan is resource-scarce, it requires access to raw materials required for manufacturing from other markets, which it could not do under the current rules of origin. While the EU's rules of origin are universal and have been in place for a long time, such a concession is necessary from a humanitarian perspective in order to allow Syrian laborers to undertake legal employment in Jordan. In addition to this, an Agreement on Conformity Assessment and Acceptance of industrial products (ACAA) has long been recommended and would enable Jordanian products of selected sectors to enter the EU market without additional technical controls (see EEAS, The EU's relations with the Hashemite Kingdom of Jordan <http://eeas.europa. eu/jordan/index _en.htm> at 20 June 2015). Jordan has chosen electrical products, toys, gas appliances and pressure equipment as priority sectors, but negotiations are yet to be launched. Other products that would potentially result from manufacturing endeavors that harness the skillset of Syrian refugees need to be considered. Part of the incentive for the EU to expand the Association Agreement in these ways would be its representation as a commitment by the EU to pursuing more sustainable solutions to the challenges of refugee crises and as a way of beginning to address the policy failures vis-à-vis migrant deaths in the Mediterranean at the source of the problem.

support for peace-building and post-conflict peace maintenance. It is empirically well established that conflicts reoccur at alarming regularity; around 40 percent of countries relapse into conflict within the first decade of post-conflict peace.[137] Conflict economists have positively linked a lower risk of post-conflict relapse to sustained economic recovery in the years immediately following a cessation of hostilities.[138] Efforts to foster a post-conflict Syrian economy, including by supporting the establishment of industrial and manufacturing plants that could easily and quickly decant into Syria with a trained workforce of repatriating refugees, is thus likely to be seen by IFIs as a strategic investment.[139]

It is important to highlight what this would mean for host states in terms of broader manifestations of regional instability. Investing in the economic stability of a post- conflict Syria not only serves the interests of Syrians, it also reduces its neighbours' risk of future conflict. That the presence of a civil war in an adjacent country increases the probability of conflict outbreak domestically is well known: "conflicts cluster geographically, possibly suggesting a diffusion mechanism or a spatial contagion effect".[140] This 'neighbourhood' impact may even be more acute in Arab states, because of their shared history, the multiplicity and intensity of transmission channels, and the regional dimension of contemporary events.[141] In constructive terms, this positive correlation between continuing instability in Syria and host state conflict vulnerability means that all states in the region have a vested interest in supporting economic stability in Syria.

While the economics of the situation may appear simple, there are still important questions that need to be answered, mainly of a political nature. First, how can such a strategy be reconciled with the imperative of creating jobs for Jordanians, and specifically the goal of the National Employment Strategy (2012) to replace migrant workers with Jordanians in key sectors? In fact, this scheme would create jobs for both Syrians and Jordanians, particularly workers in host communities. Moreover, manufacturing and industrial opportunities would establish new white-collar positions — the kinds of jobs to which Jordanian workers are more likely to aspire. Such opportunities might hence begin to address a longstanding tension in the Jordanian economy: the disconnect between the skills sets and ambitions of the bourgeoning youth population, and the number and type of available jobs. It must also be recognised that Syrians are currently operating in the informal labour market.

Providing means to transfer to the formal labour market responds to the externalities stemming from a large informal economy, increases worker safety by curtailing opportunities for exploitation, and creates revenues for the government by way of work permits and income tax. Humanitarian agencies might also find it more constructive and economic to offset the cost of work permits for refugees rather than provide food and non-food items. Livelihoods opportunities also provide dignity and autonomy, eliminating some of the criticisms associated with food vouchers and direct assistance.

A second question is whether such opportunities would increase the likelihood of Syrians remaining in-country indefinitely, or encourage more to seek refuge. As stated at the beginning of this chapter, any policy decision that will support the sheltering of refugees needs to be consistent with Jordan's national interests, including the imperative of protection being seen as temporary. A critical element of the model proposed is that investment would come from so-called 'footloose industry' (denoting industry where the costs of production remain unchanged regardless of location). Following a cessation in hostilies, such companies would have the opportunity to expand their operations to Syria, taking advantage of a new market and

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[137] P Collier, A Hoeffler and M Söderbom, 'Post-Conflict Risks' (2008), Journal of Peace Research, vol. 45 (4), pp. 461-478.

[138] ibid.

[139] Such sectors include: construction, manufacturing, electricity and telecommunications. These connections are increasingly being understood by and reflected in the policies of institutions such as the World Bank and International Monetary Fund.

[140] Recent research suggests that these linkages may be broader than originally thought. The 'neighborhood effect' theory suggests that conflict events in one country have indirect but strong impacts on states that are, not only geographically linked, but culturally, ideologically or economically connected. Source: Y Chaitani and F Cantu, *Beyond governance and conflict: measuring the impact of the neighbourhood effect in the Arab region*, Economic and Social Council for Western Asia (October 2014), < http://www.escwa.un.org/divisions/ecri_editor/ Download.asp?table_name=ecri_documents&field_name=id&FileID=272> at 3 June 2015.

[141] ibid; Examples include the Arab-Israeli and Iraq conflicts; the high incidence of conflict-driven displacement; policies of ultra-securitization; disproportionate incidences of terrorism and illegal arms trafficking, and international and regional power politics that translates into polarization and proxy wars.

utilising an existing, trained repatriating worker population.[142] Existing plant, however, would remain in Jordan, the country having established itself as a safe and profitable business environment. A parallel logic might also be seen to be in play; if the priority for Jordan is to see the eventual return of refugees to Syria, a principal way to contribute to this is by ensuring that refugees have the skills and expertise in key industries to support reconstruction, namely in building, manufacturing, electricity and ICT.

A final question is whether bestowing on refugees greater rights and autonomy creates a security risk. The tensions between refugees, host communities and the population more broadly, have been elaborated earlier in this chapter. Would the issuance of working rights in the context of existing unemployment tip this fragile balance? It is difficult to answer this question definitively. One theory is that working rights for refugees would relieve pressure on local Jordanian livelihoods too. As illustrated earlier, large numbers of Syrians are working informally and there is some evidence of them 'crowding out' Jordanians. Anecdotal evidence from site visits in and around Mafraq suggests that local Jordanians would approve of Syrians working in economic zones because this would mitigate Syrian competition with Jordanian businesses. However, it is clear that any move in support of refugee working rights would need to be accompanied by an extensive public sensitisation campaign, clearly outlining the opportunities that would accrue to the Jordanian economy and to Jordanians more generally.

It is also important to reference the emerging literature examining potential linkages between refugees and extremist groups. Some of this derives from events in Lebanon, and some from theoretical (yet logical) connections between the economic opportunities provided by extremist groups vis-à-vis the financial strain and hopelessness felt by a refugee population that is unable to work and in the context of cutbacks in humanitarian assistance. Because of the strong and negative impact such associations can have on the protection space, any linkages must be made cautiously and based on strong evidence. But there is little doubt that Jordan's best protection against instability, and against extremism more broadly, lies in generating conditions to support opportunity and raise living standards and hope for all. The best strategy to achieve this might be by capitalising on the refugee labour force to attract needed investment.

Conclusion

This chapter has proposed that the Syrian refugee population and refugees per se could be better conceptualised as embodying new opportunities, rather than hardships, for host states. It details one example of how this might materialise; encouraging large-scale industrial investment in existing special economic zones, utilising both Jordanian and Syrian labour at pre-established ratios.

This model has the potential to reduce hosting costs by increasing refugees' self- sufficiency in the context of severe shortfalls in international humanitarian assistance. Moreover, it would constitute an important step towards Jordan's longer- term economic resilience by promoting strategic investment in underdeveloped areas of the economy and by facilitating increased tax revenues. These ideas are not entirely novel. The use of 'zonal development' for the inclusion of refugees in states' economic development goals in ways that also promote their self-sufficiency has historical precedent.[143]

This is a time-bound opportunity, contingent on investors identifying a marketing opportunity in the refugee hosting situation. This opportunity is erased if refugees return, or greatly compromised if another country, such as Lebanon, seeks to exploit the same idea. There is also a time limit concerning the requisite support of external parties; as European authorities begin to formulate policies to address their own migrant crisis, models such as this should be at the forefront of their thinking.

Given the time sensitive nature of this proposal, why has Jordan, or another host state, not acted faster? One key issue is how refugee management is approached and conceptualised. As outlined earlier, there is currently an inadequate balancing of the obligations of host states against that of other stakeholders. The right to

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[142] P Collier and A Betts, above n 3.
[143] Ibid.

seek refuge and to be protected against refoulement is enshrined in international law; however reciprocal obligations to ease the burden this creates in host states are not. This becomes particularly problematic when a situation becomes protracted. Host states are well aware of these inequities, and are increasingly hesitant to adopt liberal approaches without greater assurance that they will not be left to foot the bill over the long-term. In response, this chapter has advocated a need to elaborate new ways of approaching refugee management. It suggests that a more constructive place to start might be the needs and interests of host states, or at least a better balancing of protection with host state imperatives. This nuance is important. What has been seen in many refugee situations is that an over-emphasis on protection can quickly descend into an exercise of boxing ring-type posturing between the host state and humanitarian agencies. Where it is perceived that priorities are not being met, both sides fall back on the only tools they have: financial resources and appeals for the protection of rights on the part of donors and agencies, and closing borders and tightening restrictions on refugees on the part of hosts.

The idea that refugee actors should broaden the existing 'protection-centric' framework to include host state interests is imbued with risk. Refugee protection, in its traditional top-down format, is vital and it is UNHCR's role to maintain this advocacy standpoint. But livelihoods and autonomy are also important and there need to be actors — within UNHCR or in other agencies — investigating, evaluating and proposing these options in a timely manner. This should not be construed as ruthless capitalisation on a vulnerable population. It should be understood as a necessary transition to more sustainable models for refugee hosting at a time when the frequency, depth and protracted nature of displacement means that traditional responses are no longer sufficient.

The question should be how to mitigate against and address associated risks. For instance, if the start point moves more towards state-interest, will this further dis- incentivise donor community assistance? What checks and balances need to be set in place to ensure refugee populations are not exploited, particularly in the context of gross inadequacies in the international regulatory framework concerning migrant workers? And how might the ethical implications of refugee hosting becoming an object of state interest be addressed? In short, strong safeguards need to be set in place to ensure that economic rationalism does not undermine humanitarian imperatives. But where such solutions do make sense and can work, as this chapter proposes is the case in Jordan, support from international, humanitarian and governmental actors should be forthcoming. Such planning will only be successful if bold and innovative new solutions are tried and tested to push the international refugee regime forward and out of its stalling traditional framework.

The Peace Deficit: Understanding Conflict and Instability in WANA

Kim Wilkinson and Mays Abdel Aziz

Worldwide, conflict is declining. Numbers of conflicts, as well as conflict-related deaths have fallen steadily since 1991.[144] The nature of conflict is also changing: interstate conflicts (wars between states) are becoming less prevalent, while intrastate conflict (conflicts within states) is now the predominate form of war.[145] A new type of warfare has also emerged; one that involves a complex combination of state and non-state actors, that uses identity politics to recruit, and that aims to achieve political, as opposed to physical, control over a population.[146] Against these global trends, in the West Asia-North Africa (WANA) region, conflict is intensifying. In 1989, the region accounted for 10.9 percent of battle deaths globally, but by 2014 the number had increased more than six fold (see Table 1). Since 2010, in particular, battle deaths have climbed steadily; in 2013 and 2014, the number of battle deaths in the region was more than double the number in the rest of the world combined.[147]

Table 1: Global and WANA Region Deaths in Conflict 1989 - 2014
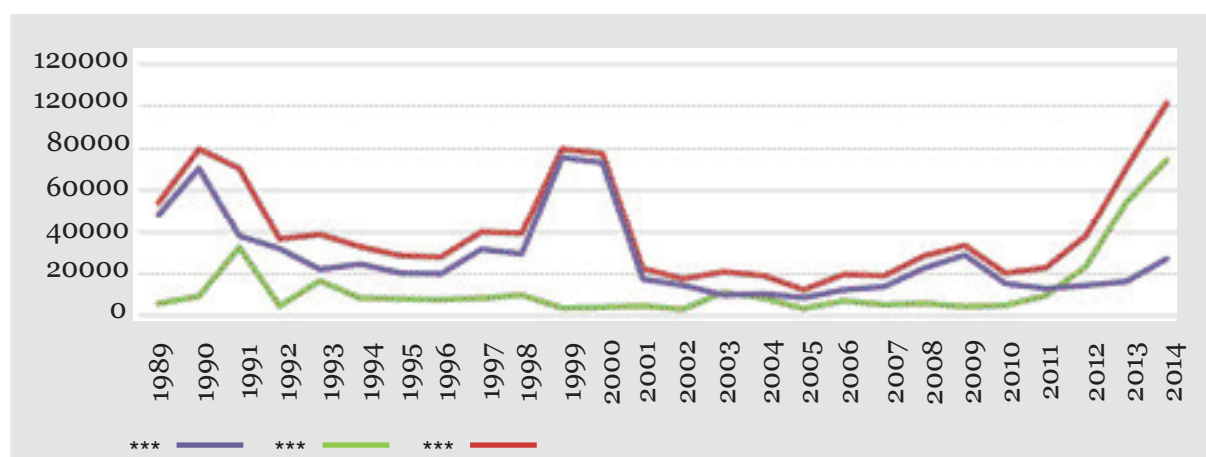
TBD: Total Battle Deaths; WBD: WANA Battle Deaths; GBD: Global Battle Deaths

This raises important questions, including whether it is possible to isolate causal factors that explain this disproportionate incidence of conflict. This chapter synthesises research undertaken in response to such questions. It starts by outlining four deleterious ways that conflict manifests in the region: death and human suffering, economic impacts, 'conflict contagion' and global spill-overs. It then discusses some of the key risk factors identified, and explores how they interact and compound each other. There are two main takeaways. First, the findings suggest that there are factors specific to the region that are not represented in global conflict and instability models;[148] second, the limitations of mono-causal explanations for civil conflict and instability onset and hence the value of inter-disciplinary approaches.

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[144] P Collier, *Wars, Guns and Votes: Democracy in Dangerous Places* (2010) 4-5. This paper adopts the broadly accepted definition of civil war i.e. internal conflict resulting in 1,000 or more conflict-related deaths per year with a minimum of 5 percent deaths shared by each side.
[145] Brinkman and Hendrix provide a good overview of conflict trends in: H Brinkman and C Hendrix, 'Food Insecurity and Conflict Dynamics: Causal Linkages and Complex Feedbacks' *Stability: International Journal of Security & Development*, 2(2) (2013), 1-18.
[146] M Kaldor, *New and Old Wars: Organized Violence in a Global Era* (2012).
[147] Data taken from the UCDP Battle-Related Deaths Dataset v.5-2015, Uppsala Conflict Data Program, Uppsala University <www.ucdp.uu.se>
[148] Institute for Economics and Peace and Visions of Humanity, *Global Peace Index* <http://www.visionofhumanity.org/#/page/indexes/global-peace-index> at 3 November 2015; Fund for Peace, *The Fragile States Index* <http://fsi.fundforpeace.org/> at 3 November 2015; J Goldstone et al. 'A Global Model for Forecasting Political Instability' *American Journal of Political Science*, 54(1), (2010).

Conflict and its Discontents

There are a number of reasons to be concerned about conflict in the WANA region. Principally, it causes immense death and suffering. The Syrian conflict alone has left more than 250,000 people dead and created four million refugees, while more than seven and a half million are internally displaced.[149] Aside from this human cost, wars are devastating to national economies. On average, a civil conflict reduces a country's growth by 2.3 percent per year; a typical seven-year war leaving a country 15 percent poorer than it would have been without conflict.[150] Using Syria again as an example, economic performance in the decade before 2011 was considered impressive; between 2000-2010 real growth averaged nearly 4.5 percent, inflation was running at less than 5 percent and positive external balances allowed an accumulation of international reserves to US\$ 18.2 billion.[151] Today, it is estimated that Syria's economy has been cut in half,[152] throwing the country back to its economic status in the 1970s.[153] Another example is Yemen; when conflict engulfed the region in 2011, the economy slipped into recession with GDP contracting by 12.7 percent.[154]

At the domestic level, such costs accrue in the forms of direct asset and infrastructure destruction; increased spending on health, policing and security; reduced productivity; and the opportunity costs that flow from governments diverting funds earmarked for socially useful forms of investment to cover military and other conflict- related expenditures.[155] Externally, disruption to trade and reduced investment are the main explanations for lost growth. The World Bank has found that investor risk perception in the first year of a war can reduce trade by between 12-25 percent, and up to 40 percent for severe civil wars (those with a cumulative death toll greater than 50,000).[156] Terrorist violence has a particularly sharp relationship with foreign investment;[157] in Lebanon it reduced foreign direct investment by 26.6 percent between 2012-2013.[158] These impacts last long after fighting subsides; recovering to original growth paths takes around 14 years of peace.

Third, the costs of conflict — both economic and humanitarian — spill over onto neighbours. A country making development advances loses an estimated 0.7 percent of GDP every year for each neighbour in conflict, bringing the cost of war on one country and its neighbours to US\$ 64 billion.[159] There is also evidence of a phenomenon called conflict contagion: that the presence of a civil war in a neighbouring country increases the probability of conflict outbreak domestically.[160]

Finally, other spill-over effects, such as disease, crime and extremism, have international ramifications. The instability, weak rule of law and unreliable law enforcement associated with conflict provides these countries with a comparative advantage in organised international crime and terrorism.[161] Criminal networks are better able to mobilise, recruit and gain strength in such environments, and public assets and resources can more easily be seized. Conflict conditions likewise create a security vacuum that can be exploited by extremist organisations. The economic pressures associated with war mean that organised crime and terrorist groups not only feed off the conflict economy, they also accelerate its growth. Their operation and actions are

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[149] Internal Displacement Monitoring Centre, *Syria IDP Figures Analysis* (2015).

[150] P Collier, *The Bottom Billion: Why the Poorest Countries in the World are Failing and What Can be Done About It?* (2007) 27.

[151] M Khan and S Milbert, 'Syria's economic glory days are gone', *The Atlantic Council*, April 3 2014 <http://www.atlanticcouncil.org/blogs/menasource/syria-s-economic-glory-days-are-gone> at 8 August 2015.

[152] S Heller, 'The Cost of Civil War: Syria's Economy After Four Years of Conflict', *Global Envision*, 1 April 2015 <http://www.globalenvision.org/2015/03/25/cost-civil-war-syria's-economy-after-four-years-conflict> at 6 July 2015; see also D Butter, Syria's Economy: Picking Up the Pieces, Chatham House 2.

[153] M Lobel, 'Syria's economy cut in half by conflict', *BBC News*, 23 June 2015.

[154] The World Bank, 'Country Overview: Yemen' <http://www.worldbank.org/en/country/yemen/overview> at 11 August 2015.

[155] Military spending typically increases by 2.2 percent during civil war; a civil war reduces a country's average rating on the International Country Risk Guide by around 7.7 points (on a 100-point scale); World Bank, *World Development Report* (2011) 64-65.

[156] ibid.

[157] ibid 65.

[158] International Monetary Fund, UNCTAD World Investment Report (2014).

[159] Collier (n 1) 31-37.

[160] Y Chaitani and F Cantu, *Beyond governance and conflict: measuring the impact of the neighborhood effect in the Arab region*, Economic and Social Council for Western Asia (October 2014). <http://www.escwa.un.org/divisions/ecri_editor/Download.asp?table_name=ecri_documents&field_name=id&FileID=272> accessed 3 June 2015.

[161] Collier (n 7) 31.

almost exclusively financed by illicit activities, including the seizure of state resources (extractive industry, oil fields, agricultural production), extortion (taxes levies, ransom), money laundering, people trafficking, and illicit trade (drugs, light arms, weaponry).

These deleterious effects of conflict, and the increase of its incidence in the region relative to the rest of the world, raise the important question of region-specific drivers. What follows is a discussion of environmental, political and social justice- governance risk factors identified.

Environmental Risk Factors for Civil Conflict and Unrest

The WANA region is particularly water scarce and the majority of states are net food importers. Additionally, energy provision is unequal, both within the region and within individual states. This positions the region as particularly susceptible to civil conflict and instability engendered by environmental factors.

Water Security

Water has been an enduring concern for WANA states and communities. In the 1980s, scholars such as Starr and Stoll warned of impending 'water wars' in the region. Such wars have not come to fruition, and the statistical evidence linking water scarcity to interstate conflict is thin. Wolf, for example, tested for interstate violence involving water as a driver of conflict and found only seven "minor skirmishes" in the twentieth century; conversely, he identified 145 water related treaties during the From Politics to Policy: Building Regional Resilience in West Asia and North Africa same timeframe.[162] This should not, however, discount the role of water in conflicts in the region, where water has been a target, a weapon, and a prize, as well a driver of popular unrest. Non-state actors have increasingly sabotaged state water resources as a warfare tactic, for example, attacks on Turkey's dams in the Euphrates by the Kurdistan Workers' Party (PKK). The Strategic Foresight Group argues that water will become a more attractive target as its scarcity increases.[163] This is consistent with examples from Iraq and Syria, where ISIS has sought to gain control over water sources, or alternatively, target them.

Water has also been a source of social friction on a local scale in several WANA states. While the Egyptian revolution may be perceived as a Facebook Revolution, it can also be understood as the outcome of ongoing political contestations.[164] One source of popular discontent was access to water. In July 2007, thirst motivated 3,000 citizens from Burg al-Burullus in Kafr al Shaykh to take to the streets. They were protesting 20 days of having no safe drinking water,[165] as their water allowance had been reassigned to tourists. By the end of the month, the water shortage had spread to other areas.

The water demonstrations surprised the cultural elite, the intelligentsia, who had not imagined that there were non-labour social sectors still able to protest. Yet, here they were faced with what looked like a broad civil disobedience movement led by farmers, the socially excluded and the destitute, from whom for years the government had denied one of their most basic rights to life: the right to clean drinking water. The thirsty had exhausted all other means of complaint and appeal.[166]

In the lead up to the January 25 Revolution, water became increasingly political. In November 2010, Egypt fell below the UN's water poverty line of 1000 cubic meters of water per person per year.[167] The bulk of

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[162] A Wolf, 'Conflict and cooperation along international waterways' *Water Policy*, 1 (1998) 251. Wolf recognises the limitations of this study, noting that: "Both internal disputes, such as those between interests or states, as well as those where water was a means, method, or victim of warfare, are excluded".

[163] Strategic Foresight Group, *Water and Violence: Crisis of Survival in the Middle East*, (2014) 2.

[164] "Repertoires of contention" is a theory developed by Charles Tilly. Gerbaudo applies this theory to the events leading up to the January 25 Revolution in P Gerbaudo, *Tweets and the Streets; Social Media and Contemporary Activism* (2012) 52.

[165] K Ali, 'Precursors of the Egyptian Revolution' *DS Bulletin*, 43(1) (2012), 21.

[166] ibid.

[167] S Amin, 'Egypt's farmers desperate for clean water' *CNN*, 10 November 2010 <http://edition.cnn.com/2010/WORLD/africa/11/09/egypt.water.shortage/> at 3 March 2015.

Cairo's citizens, many of whom live in impoverished conditions in informal or ashwai'yat neighbourhoods, had their water diverted to the periphery of Cairo where the wealthy and elite live.[168] This arrangement mirrored other asymmetries, such as the divide in economic opportunities and widespread corruption. Egypt was thus not only on the brink of revolution, but also a water crisis.

The West Bank has also been a site of local conflicts over water. Those who are at the end of a pipe are beholden to up-pipeline users, and disputes have broken out between communities with water and those without, and where illegal water siphoning occurs. This corroborates Wirkus and Bogardi's observation that water conflicts at the sub-state level are rife, and their prediction that conflicts like water riots will feature more prominently in the future.[169]

Some states have tried to taper these vulnerabilities by importing food products that are water intensive (instead of producing them themselves).[170] Hakimian argues that the 'virtual water' solution "has played an effective role in softening and even deferring the political impact of water scarcity".[171] It must be recognised, however, that access to products on the international market is only possible if the state has the requisite purchasing power. Virtual water might hence be a short-term answer, but food prices are inherently volatile; prices upheavals can destabilise states, as discussed below.[172]

Food Security

WANA states are particularly susceptible to food insecurity as most are net food importers and are thus vulnerable to international price fluctuations. Small changes in commodity prices can have a disproportionate impact on the cost of staple foodstuffs, and this volatility impacts the poor most severely. The 2008 food price hike created an additional four million undernourished people in Arab countries[173] and drove 44 million more people into poverty.[174] Brown describes what he calls the new geopolitics of food:

> ...for the planet's poorest 2 billion people, who spend 50 to 70 percent of their income on food, these soaring prices may mean going from two meals a day to one. Those who are barely hanging on to the lower rungs of the global economic ladder risk losing their grip entirely. This can contribute — and it has — to revolutions and upheaval.[175]

Another example is the 2010 Russian heat wave, which resulted in a decline of the wheat harvest and subsequent spike in the price of grain. To protect local consumers and producers, Russia stopped exporting, which contributed to an additional price spike. The WANA region, which imports a large percent of the cereals consumed, was severely affected; some governments incurred a massive economic cost by maintaining the price of subsidised bread in the face of this crisis.[176]

The literature emphasises that food insecurity increases the likelihood of, and can intensify, particular types of conflict. According to Brinkman and Hendix, "food insecurity — especially when caused by a rise in food prices — is a threat and *impact multiplier* for violent conflict".[177] Specifically, it increases the likelihood

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[168] K Piper, *Revolution of the Thirsty* (2012) Places Journal <https://placesjournal.org/article/revolution-of-the-thirsty/#ref_4> at 3 March 2015.

[169] L Wirkus and J Bogardi, 'The Global Water Crisis – Are Water-related Violent Conflicts Becoming More Likely?' In Bonn International Center for Conversion, *Monitoring Environment and Security: Integrating concepts and enhancing methodologies.*

[170] T Allan, ''Virtual water': a long term solution for water short Middle Eastern economies?' (paper presented at the British Association Festival of Science, University of Leeds, 9 September 1997, 1).

[171] H Hakimian, 'Water Scarcity and Food Imports: An Empirical Investigation of the 'Virtual Water' Hypothesis in the MENA Region', 4; M Zeitoun and J Warner, 'Hydro-hegemony – a framework for analysis of trans-boundary water conflicts' *Water Policy*, 8 (2006).

[172] Other WANA states, especially in the Gulf, have pursued a 'land grab' strategy; securing rights to agricultural production in other countries. This strategy has, thus far, been relatively ineffective see: J Sowers. 'Water, Energy and Human Insecurity in the Middle East' *Middle East Report*, Spring (2015).

[173] International Fund for Agricultural Development, *Improving Food Security in Arab Countries*, (2009) xii.

[174] The World Bank, *The Grain Chain; Food Security and Managing Wheat Imports in Arab Countries*, (2012) 1.

[175] L Brown, 'The New Geopolitics of Food', *Foreign Policy (Online)*, 25 April 2011 <http://foreignpolicy.com/2011/04/25/the-new-geopolitics-of-food/> at 5 March 2015.

[176] G Welton, *The Impact of Russia's 2010 Grain Export Ban*, GeoWel Research June (2011); Russia ban on grain export begins' BBC News (Online) 15 August 2010 http://www.bbc.co.uk/news/business-10977955 at 4 March 2015.

[177] Brinkman and Hendix (n 2) 2.

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of democratic collapse, civil strife, protest and rioting, as well as communal conflict. The authors do add the qualifier that acute food instability can "... diminish an aggrieved population's ability to prosecute their war aims" as it reduces the resources available to militants, can hinder political participation and because food denial is a counter-insurgency tactic.[178] Certainly, there is less evidence linking food insecurity to interstate war.[179] Thus while food insecurity might not directly cause conflict, when added to other political or economic drivers, it can create a potent mix.

It is not difficult to find examples of the link between food security and instability in the WANA region, particularly in Egypt. Egyptians are the biggest consumers of bread in the world. Baladi bread is referred to as *a'ish*, meaning life, leading many to see it as a right. Egypt imports much of the wheat it uses to make *baladi* bread (between 45-55 percent of its total wheat needs), making it the world's largest wheat importer.[180] Given Egypt's reliance on food subsidies, and bread subsidies in particular, it is not surprising that when this social security is imperilled there is a strong social reaction. In 1977 there was a bread riot in which 79 people were killed, spurred on by Sadat reducing subsidies on staples such as flour and oil, as prescribed by the International Monetary Fund.[181] More recent protests occurred in 2008 in Burg al-Burullus, the same town that demonstrated against water restrictions in 2007,[182] as well as in Morocco, Algeria, Yemen, Lebanon, Jordan and Syria in 2007. Moreover, it is impossible to understand the Arab Spring without recognising the influence of persistent food insecurity.[183] In January 2011, when the Egyptian revolution began, the Food and Agriculture Organisation's (FAO) Food Price Index had increased 3.4 percent since December 2010, reaching its highest level since the index was developed.[184] These examples corroborate the literature that higher consumer prices, especially for food, can cause an upswing in urban popular mobilisation. It is likewise important to note that the reciprocal relationship — that conflict drives food insecurity — is well recognised.[185]

Government responses to food insecurity, including efforts to mitigate price fluctuations, are varied and, according to Hendrix and Haggard, can be attributed partly to regime type. Democracies' interventions tend to target the poorest households, such as food for work programs; autocracies, however, implement strategies such as export bans, controlling prices and subsidies, which broadly benefit urban populations. In democracies, popular unrest resulting from price hikes does not necessarily lead to crisis; however because autocracies' basis for support rests on their ability to maintain order and the expectation that they will manage prices via controls and subsidies, serious unrest is more likely in autocratic or mixed regimes.[186] Another study by the same authors, however, found no increased incidence of protests and riots in autocracies as the food price index increased.[187] More research is thus necessary to tease out the exact relationship between these variables.

Energy Security

Egypt, Lebanon and Iraq are all prone to electricity shortages and blackouts. Energy poverty can exist even in countries that are net exporters of oil and gas; Yemen is a prime example of a state where domestic distribution problems manifest in poor access to energy.[188] In Iraq, energy security has been further

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[178] ibid 3-5.

[179] Ibid 4.

[180] C Breisinger et al., *Tackling Egypt's Rising Food Insecurity in a Time of Transition*, World Food Programme (2013) 1; G Ahmed et al., *Wheat Value Chains and Food Security in the Middle East and North Africa Region*, Duke Center on Globalization Governance & Competitiveness (2013) 14.

[181] A Al-Arian, 'Egypt: Reduxing the Past', Al Jazeera *(Online)*, 1 February 2011, <http://www.aljazeera.com/indepth/opinion/2011/02/20112110358461902.html> at 4 March 2015.

[182] M El-Ghobashy, 'The Praxis of the Egyptian Revolution' *Middle East Report*, Winter (2014).

[183] J Gelvin, *The Arab Uprisings: What Everyone Needs to Know* (2012) 22.

[184] G Joffé, 'The Arab Spring in North Africa: origins and prospects' The Journal of North African Studies, 16(4) (2011), 509.

[185] H Brinkman and C Hendrix (n 2) 5.

[186] ibid, 8.

[187] C Hendrix and S Haggard, 'Global food prices, regime type, and urban unrest in the developing world' *Journal of Peace Research* 52(2) (2015), 152.

[188] ibid 296.

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compromised by war, civil strife and sanctions. Likewise, Lebanon had a poorly functioning electrical supply prior to 2006, but the Israel-Hezbollah war compounded these infrastructural problems. Egypt's energy issues, by contrast, derive mostly from mismanagement. Energy security has a historic relationship to unrest in the region. In Yemen, fuel price hikes in 2005 led to riots resulting in 36 deaths.[189] Indeed, on the eve of the Arab Spring, energy costs rose from US$ 16/barrel in December 2010 to US$ 18/barrel in March 2011.[190] Like food price fluctuations, fuel price volatility impacts the poor most severely.

Climate Change

As climate change transforms the natural environment it exacerbates water and food scarcity. The region is particularly at risk from drought, with temperature rises of between 0.5° C – 1.5° C predicted for MENA in 2020-2029,[191] and surface water anticipated to drop between 10-30 percent by 2050.[192] Climate change induced migration is a clear example of how these pressures can feed conflict. Research by Wodon and Liverani found a correlation between worsening weather conditions and increased migration; in the areas most severely affected, climate change migration comprised between 10-20 percent of total migration.[193] As Werz and Conley write "[i]n particular the cumulative overlays of climate change with human migration driven by environmental crises, political conflict caused by this migration, and competition for more scarce resources will add new dimensions of complexity to existing and future crisis scenarios".[194]

Rough Terrain and Conflict

Fearon and Laitin's 2001 study isolated rough terrain as among the drivers of civil war:[195] "[M]ountainous terrain and non-contiguous territorial holdings appear to significantly raise the risk [of conflict onset]...".[196] Importantly, many WANA states have rough terrain, with cities separated by desert and mountains, including Libya and Yemen. Collier and Hoeffler also found a positive correlation between mountainous terrain and conflict onset, but found that forested terrain was not significant.[197] Reasons for this likely relate to the basic tenets of guerrilla warfare: because insurgents are usually outmatched in terms of the number of fighters and weaponry possessed by conventional forces, they need to hide, and mountains are useful for this.

Hendrix has also examined civil war onset and the role of geography. He found that desert and rainforest exert no direct effect but, like Collier and Hoeffler, and Fearon and Laitin, that mountainous terrain is a significant predictor of conflict onset.[198] He suggests, however, that it is how rough terrain impacts attributes of the state that is important, and specifically how rough terrain impacts per capita income, reliance on oil exports and regime consolidation. Thus while there is a strong body of research implicating rough terrain — specifically mountainous terrain — as a conflict risk factor, there is contestation around why it is significant.

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[189] B Whitaker and agencies, '36 die in riots after Yemen fuel price hikes', *The Guardian (Online)*, 23 July 2005 <http://www.theguardian.com/world/2005/jul/23/yemen.brianwhitaker>

[190] Joffé (n 41) 509.

[191] IPCC, cited in M Zeitoun et al, 'Water Demand Management and the water-food-climate nexus in the Middle-East and North Africa region', Water Demand Management Research Series (2010) 5

[192] P Milly, K Dunne and A Vecchia, 'Global pattern of trends in streamflow and water availability in a changing climate' Nature, 438 (2005).

[193] Q Wodon and A Liverani, *Climate Change and Migration: Evidence from the Middle East and North Africa (World Bank Studies)* (2014), xxxiii-xxiv.

[194] M Werz and L Conley, *Climate Change, Migration, and Conflict; Addressing complex crisis scenarios in the 21st Century*, Centre for American Progress (2012), 3.

[195] J Fearon and D Laitin, *Ethnicity, insurgency and civil war*, Paper presented at the Annual Meetings of the American Political Science Association, San Francisco, CA, 30 August – 2 September (2001), Abstract.

[196] ibid 3; Importantly, Fearon and Laitin define insurgency as "...a technology of military conflict characterized by small, lightly armed bands practicing guerrilla warfare from rural base areas."

[197] P Collier and A Hoeffler, *Coup Traps: Why does Africa have so many Coup d'Etat?* Preliminary Draft, Centre for the Study of African Economies, Department of Economics, University of Oxford, August (2005).

[198] C Hendrix, 'Head for the Hills!" or This Hard Land? The Direct and Indirect Effects of Rough Terrain on Civil Conflict Onset', Paper presented at the 47th Annual Meeting of the International Studies Association, San Diego, 22-25 March (2006), 2.

Governance Risk Factors for Civil Conflict and Unrest

Until the Arab Spring there were a number of generalisations that could safely be made about the WANA region: typically regimes had an authoritarian flavour and were often highly personalised, and corruption and nepotism were widely found norms.[199] Features of such authoritarianism include strict restrictions on political participation and acceptable societal discourse.[200] In some states political parties are entirely banned, while in others their activities are severely constrained. Elections are sometimes engineered, with incumbents — or their family members — most often securing victory. In Tunisia, Ben Ali was successful in achieving re-election five times, always with the vast majority of the votes (between 89–98 percent).[201] Other democratic processes are largely perfunctory or calculated 'pressure value' moves, designed to reduce public frustrations while at the same time not representing any real regime threat.

The pervasiveness of authoritarianism in the WANA region[202] meant that the Arab Spring took many analysts by surprise; across the board it appeared that regimes were stronger than ever only a few years before the uprisings.[203] A closer look at these ruling bargains, however, helps to explain regime robustness in the region and how a space opened for democratic contestation in 2011.

Ruling bargains broadly involve the exchange of political participation for various goods, services and socio-economic benefits. Such bargains, however, are structurally flawed as they rely on the state's financial largess; as the economic commitments of states in the region rose, these bargains began to break down. In response, they employed fear and coercion, coupled with occasional bouts of political liberalisation.[204] Such willingness to adapt explains, at least somewhat, why authoritarianism has been able to persist.

Political economy is another useful tool to understand the durability of authoritarianism. Some regimes have attempted to fracture the private sector because they recognise how easily economic power can translate into political power. For example, when Syria underwent economic liberalisation it did so selectively, so that the Alawite regime was not threatened by the Sunni-dominated business community.[205] Likewise in Egypt, the military is highly invested in the economy and, although their exact stake is unknown, they can be described as possessing de facto power. Their refusal to attack protesters was likely a deciding factor in the revolutionaries' ability to overthrow Mubarak. But likewise, after Morsi was elected, the army transferred its de facto power to de jure power, culminating in Al Sisi's Presidency.

Gelvin adds two — by themselves incomplete — explanations for why authoritarianism has endured: foreign interference and rent availability.[206] Western powers have certainly given support to Middle Eastern regimes because of their geo- political significance and assistance in the so-called War on Terror. The role of rent, in facilitating both repression and co-optation, is examined in the following section.

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[199] B Whitaker, *What's Really Wrong With the Middle East* (2014) 93.

[200] M Lynch, *The Unfinished Revolutions of the New Middle East* (2013) 11-12.

[201] Gelvin (n 40) 38.

[202] E Bellin, 'The Robustness of Authoritarianism Reconsidered: Lessons of the Arab Spring' *Comparative Politics*, 44(2) (2012); E Bellin, The Robustness of Authoritarianism in the Middle East: Exceptionalism in Comparative Perspective *Comparative Politics* 36(3) (2004); S Heydemann, 'Social Pacts and the Persistence of Authoritarianism in the Middle East' in O Schlumberger (ed), *Debating Arab Authoritarianism: Dynamics and Durability in Nondemocratic Regimes* (2007); S Heydemann, *Authoritarianism in Syria: Institutions and Social Conflict*, 1946-1970 (1999); S King, *The New Authoritarianism in the Middle East and North Africa* (2009); L Weeden, *Ambiguities of Domination: Politics, Rhetoric, and Symbols of in Contemporary Syria* (1999).

[203] However some experts were aware of political contestation. For instance in Egypt, there had been an upswing in mobilisation in the years prior to the Spring.

[204] M Kamrava, 'The Rise and Fall of Ruling Bargains in the Middle East' in M Kamrava (ed), *Beyond the Arab Spring: The Evolving Ruling Bargain in the Middle East* (2014) 18.

[205] B Haddad, 'Business Networks in Syria: The Political Economy of authoritarian Resilience' (2012); V Perthes, *The Political Economy of Syria Under Assad* (1997).

[206] Gelvin (n 40) 7.

Regime Type and Violence

According to Brinkman and Hendrix, regime type has "complex effects on political violence".[207] In fact, Goldstone et al.'s Global Model for Forecasting Political Instability comprises four variables: regime type, infant mortality, conflict-ridden neighbourhood,[208] and a binary measure of state-led discrimination.[209] Of these, regime type is found to be the most significant in predicting instability onset:

Indeed, once regime characteristics are taken into account, most other economic, political, social, or cultural features of the countries in our sample had no significant impact on the relative incidence of near-term instability. (Snyder and Mahoney 1999).[210]

How WANA States Address Contestation: Co-optation and Coercion

The availability of rent in the region has enabled regimes to attempt to buy off or co- opt dissenters. Oil is a well-known form of rent, but other resources including gas reserves, indirect taxes such as customs duties and revenue from infrastructure, such as Egypt's Suez Canal, can also be described as rent. Alianak explains the significance of oil, backed-up by religion, on political stability in the Gulf:

The monarchies and hereditary rulers of the Gulf States survived [the Arab Spring] because the diversionary method of co-optation, coupled with the use of religion, prevailed.... There was hardly any dissonance between the values of the Saudi royal family and Saudi citizens, since the economic needs of the people were *more than adequately met by the massive infusion of subsidies from the coffers of a regime that enjoyed immense wealth generated by oil revenues*. Also, co-optation was backed up by the Wahhabi Islamic ties of the kingdom (emphasis added).[211]

Morocco, by contrast, co-opted protestors with promises of democratic reform.[212] The regime increased the power of the Prime Minister and Parliament and raised the minimum wage,[213] perhaps explaining why there was no 'Spring' in the Kingdom.[214]

The use of fear is another tactic used to respond to what the 2004 Arab Human Development Report termed Arab states' "chronic legitimacy crises". This has been possible because many WANA states possess expansive intelligence services. For example, in the face of protests in 2011, concerned neighbours of Bahrain quickly put their support behind the government. Gulf Cooperation Council (GCC) forces were sent to reinforce the local guard, composed of 1000 Saudi troops and 500 police from the UAE,[215] and the next day an Emergency Law was introduced.[216] The International Crisis Group's July 2011 report outlines the resulting fallout:

In February and March 2011, Bahrain experienced peaceful mass protests followed by brutal repression, leaving a distressing balance sheet: over 30 dead, mostly demonstrators or bystanders; prominent opposition leaders sentenced to lengthy jail terms, including eight for life; hundreds of others languishing in prison; torture, and at least four deaths in detentions; trials, including of medical professionals, in special security courts lacking even the semblance of due process of law... a parliament left without its opposition; and

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[207] They make the point that overall, disregarding regime type, governments tend to disproportionately focus on urban populations, the military and the upper and middle classes. However, as discussed in the environmental section of this paper, democracies respond differently to autocracies when facing crises, such as those induced by price volatility in international markets, see: Brinkman and Hendrix (n 2) 7.

[208] Four or more bordering states with major armed civil or ethnic conflict.

[209] Goldstone et al (n 5) 218.

[210] Ibid.

[211] S Alianak, *The Transition Towards Revolution and Reform; The Arab Spring Realised?* (2014) 165.

[212] It is worthy of noting that post-Arab Spring there has been investment in the Kingdom, which is thought to have potential oil reserves; see 'Oil firms step up exploration in Morocco's Atlantic waters', *Reuters*, 18 October 2013 <http://www.reuters.com/article/2013/10/18/morocco-energy-idUSL6N0I61NY20131018> at 25 August 2015.

[213] Joffé (n 41) 7.

[214] L Chomiak and J Entelis, 'The Making of North Africa's Intifadas' *Middle East Report* , 259 Summer (2011), 11-12.

[215] 'Gulf states send forces to Bahrain following protests', *BBC News (Online)*, 14 March 2011 <http://www.bbc.com/news/world-middle-east-12729786>

[216] International Crisis Group, *Popular Protest in North Africa and the Middle East (VIII): Bahrain's Rock Road to Reform*, Middle East/North Africa Report No. 111 28 July (2011) 3.

much more.[217]

While this combination of coercion and co-optation appears to have enabled the survival of WANA regimes — for the most part allowing them to forestall large-scale protests and rebellion — overreliance has had some unexpected results. The security services relied upon by the Egyptian regime to prevent protests of the sort that occurred in January 2011, contributed to de-securitising the regime. This is because they became so large that they "undermined [the government's] ability to gauge public opinion and react appropriately".[218] Additionally, some sections of the population, due to their frequent interactions with security services, became well- schooled at fighting them. The Ultras, for example, a group of soccer fans who had regular encounters with Egyptian security, were able combat them on an almost equal footing.[219]

Finally, the use of force as a deterrent has an Achilles Heel. Chronic or excessive repression can build resentment, and once a certain threshold is reached, it can instead fuel civic unrest. The decision to employ baltagiya (or thugs) against protesters in Egypt, in what became known as 'The Battle of the Camel', is a clear example; as was Assad's detention and abuse of children suspected of penning counter-regime graffiti in Daraa, and excessive use of force against protesters.[220] Some even refer to Syria's most recent uprisings as the "revenge of Hama".[221]

Human Dignity and Social Justice Risk Factors

The Arab Spring protests are widely regarded as a rejection of what Dominique Moïsi has termed, "a culture of humiliation",[222] and a symbol of the population's aspirations for human dignity.[223] This has led other scholars to describe the subsequent uprisings as "new types of progressive experiments", suggesting they might be conceived of as a social justice revolutions, "tapping into popular idioms of everyday concern".[224] It is true that the revolutions did not have an ideological nature; groups that protested largely cut across faith and ethnic groups and did not discriminate based on age.

Moreover there are several discernible social justice triggers for the revolutions. In Egypt, Khaled Said — the 28-year-old who was tortured by police and subsequently died[225] — was a clarion call for change. He was targeted because he had published an online video showing police officers handling drugs. The police alleged that he suffocated after he tried to swallow drugs he was carrying, however this explanation was shown to be a fabrication when images of Khaled's beaten face were leaked.[226] Popular anger led to the creation of a Facebook group named 'We are all Khaled Said', which subsequently became a forum for anger against the regime, and an advocacy platform for taking action.[227] In Syria it was 13-year old Hamza

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[217] Ibid.

[218] Robert Springborg, paraphrased by J Sowers 'Egypt in Transformation' in J Sowers and C Toensing (eds), *The Journey to Tahrir: Revolution, Protest, and Social Change in Egypt* (2012) 5.

[219] L Ryzova, *The Battle of Muhammad Mahmud Street: Teargas, Hair Gel and Tramadol* (2011) Jadaliyya <http://www.jadaliyya.com/pages/index/3312/the-battle-of-muhammad-mahmud-street_teargas-hair-> at 10 August 2015.

[220] Human Rights Watch, *Syria: Government Crackdown Leads to Protester Deaths: Authorities Should Halt Use of Excessive Force on Protesters* (2011) 21 March <https://www.hrw.org/news/2011/03/21/syria-government-crackdown-leads-protester-deaths> at July 31 2015.

[221] L Sadiki, 'Syria: the revenge of Hama, 30 years on', *Al Jazeera*, 3 February 2012, <http://www.aljazeera.com/indepth/opinion/2012/02/20122382325175537.html>

[222] D Moïsi, 'The Clash of Emotions' *Foreign Affairs*, January/February (2007).

[223] E Goldstein, 'Before the Arab Spring, the Unseen Thaw' in Human Rights Watch (ed), *World Report 2012: Events of 2011* (2012).

[224] J Foran, 'Taking Power, Re-Making Power: The Threads of the Cultures of Resistance behind the Arab Spring' in *The Evolving Ruling Bargain in the Middle East*, Center for International and Regional Studies, Georgetown University School of Foreign Service in Qatar, Summary Report No. 9 (2013), 5.

[225] K Ali, 'Precursors of the Egyptian Revolution' *DS Bulletin*, 43(1) (2012), 22.

[226] BBC News, 'Egypt police jailed over 2010 death of Khaled Said' 3 March 2014 <http://www.bbc.com/news/world-middle-east-26416964> at 2 August 2015.

[227] L Herrera, *"V for Vendetta": The Other Face of Egypt's Youth Movement* (2011) <http://www.jadaliyya.com/pages/index/1723/v-for-vendetta_the-other-face-of-egypts-youth-move> at 2 August 2015; A Ali and D El-Sharnouby, 'Distorting Digital Citizenship: Khaled Said, Facebook, and Egypt's Streets' in L Herrera (ed), *Wired Citizenship: Youth Learning and Activism in the Middle East* (2014), 93.

Ali Al-Khateeb who became a martyr for the revolution.[228] A similar Facebook group, 'We are all the child martyr Hamza Ali Al Khateeb,' was set up and protesters held posters with his image at rallies.

Events such as Khaled and Hamza's deaths resonated with young people because they seemed to encapsulate the difficulties they were facing in the region: police brutality, coupled with corruption and a lack of transparency. Limited economic opportunity, and associated restrictions on upwards social mobility, was another shared area of concern. Marriage, for example, requires financial capital; rising youth unemployment has thus contributed to an increase in the average marriage age. Adding to these frustrations is that those who possess wasta — "arguably the most valuable form of currency in much of the Middle East"[229] — progress faster and easier.

Human Rights Abuses: A Predictor of Conflict?

Some research has identified a statistical correlation between human rights abuses and conflict onset. Fearon and Laitin found that "...at least for the period 1976 to 1994, government human rights performance in the prior year [was] a relatively powerful predictor of the odds of subsequent civil war".[230] They admit, however, that some of this effect may not be causal, and that the measure may reflect prior low-level insurgency.[231] Additional research is therefore needed before a clear correlation can be confirmed.

Corruption: "Egypt has a Million Mubaraks"[232]

The World Bank has found that corruption — a common feature of WANA states — "has doubly pernicious impacts on the risk of violence, by fuelling grievances and undermining the effectiveness of national institutions and social norms".[233] The effects of corruption trickle down, disproportionately affecting the poor because they have the least financial resources, but are still expected to pay bribes. Chayes argues that the Arab Spring "amounted to a mass uprising against kleptocratic practices."[234] It was not only Mubarak in Egypt, but also his sons that particularly attracted people's ire:

The Mubarak brothers — wealthy businessman Alaa and Mubarak›s one-time heir apparent Gamal — are viewed by many Egyptians as key pillars of an autocratic and corrupt administration that struck an alliance with mega-wealthy businessmen at the expense of the nation›s poor and disadvantaged.[235]

In Tunisia, it was former President Bin Ali, his family and his cronies. State interventions and entry restrictions enormously benefited these individuals at the expense of the private sector and the economy as a whole. Outrage escalated when WikiLeaks cables detailed the lavish and corrupt lifestyles of those who became commonly known as 'The Family.'

Pluralism and Horizontal Inequalities

While some scholars have found that sectarian divisions are widely associated with instability and civil conflict,[236] the evidence is not conclusive. Fearon and Laitin's research highlights that the majority of societies with ethnic and religious plurality are peaceful. Goldstone et al. agree:

While we find that nations with governments that discriminate against minorities at risk are themselves at

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[228] L Stack, 'Video of Tortured Boy's Corpse Deepens Anger in Syria' *The New York Times*, May 30 2011 <http://www.nytimes.com/2011/05/31/world/middleeast/31syria.html> at 3 August 2015.

[229] Cited in Whitaker, above n 56, 165.

[230] Fearon and Laitin (n 52) 26.

[231] ibid.

[232] Whitaker (n 56) 10.

[233] World Bank (n 12) 6-7.

[234] Cited in C Lozada, 'Do corrupt governments breed violence; review of "Thieves of State: Why Corruption Threatens Global Security', *The Washington Post (Online)*, 16 January 2015 <http://www.washingtonpost.com/news/book-party/wp/2015/01/16/does-a-corrupt-government-breed-political-violence/>

[235] H Hendawi and S El Deeb, 'Alaa And Gamal Mubarak, Sons of Ousted Egyptian President, Freed From Prison', *The World Post (Online)*, 27 March 2015 <http://www.huffingtonpost.com/2015/01/26/alaa-mubarak-gamal-mubarak_n_6544886.html>

[236] Collier, above n 1, 121-140; Collier, Hoeffler and Rohner 'Beyond Greed and Grievance: Feasibility and Civil War' (2006).

higher risk of political instability, no measure of ethnic composition significantly entered the forecasting model.[237]

Certainly in the WANA region, conflicts are often drawn upon ethnic or sectarian lines, and there are several instances where politicians have implemented policies that have led to horizontal inequalities i.e. economic, social or political inequalities between culturally defined groups.[238] One explanation is that it is not the existence of these divisions themselves, but the implementation of discriminatory policies that are sectarian in nature, that leads to conflict and instability.

There is perhaps no more powerful example of the deleterious impact of horizontal inequalities than the case of Iraq. The bungled process of de-Ba'athification, which dismantled the state apparatus by banning Ba'ath party members from the bureaucracy, is well documented.[239] Most damaging, de-Ba'athification created a large number of trained, armed and dispossessed Iraqis, laying a foundation for insurgency and terrorism. Prime Minister Maliki fuelled such trends; instead of working to forge a strong social contract,[240] he exacted revenge on the Sunni population for the horrors of Saddam's Iraq. Some scholars even link thee events to the birth of ISIS. Abu Hanieh and Abu Rumman argue that Maliki's sectarianism was clear in the use of force to stop Sunni protests and sit-ins, for example in Al-Hawija in 2013. Such violent acts provoked both Sunni and Shi'a communities, pushing them to adopt sectarian narratives and narrowing the space for peaceful opposition, ultimately aiding ISIS recruitment.

While Syria is generally portrayed as a sectarian conflict, other scholars argue that clan or kinship, asabiyya in Arabic, matters more than sect.[241] Some even posit that Assad played the sectarian card in a bid to paint the rebels as not having legitimate political grievances.[242] Both are probably true to some extent; the civil war certainly began as a revolution without sectarian elements insofar as it constituted an uprising against the Assad regime. Thus while sectarianism may provide an attractive narrative, analysts must take care that this does not obfuscate other contributory factors.

Weak States, Bad Governance

There is extant literature that finds a link between poor governance and civil conflict. For instance, Holsti posits that states lacking vertical and horizontal legitimacy are at risk of experiencing civil conflict.[243] Vertical legitimacy refers to the connection between a population and political institutions and regimes; if the latter are seen as representing society, then vertical legitimacy is high. Horizontal legitimacy refers to how individuals and groups treat each other; when horizontal legitimacy is high there is acceptance and tolerance between groups and communities in the polity.[244]

States of whatever format, if they lack vertical and horizontal legitimacy, and if their authority structures are primarily patrimonial, will be weak. They may look like states on the outside... [b]ut they lack a single "idea" of the state around which different constituent communities' affections and loyalties can converge. Inside, they are largely hollow shells in which governance is local, not national, and where communal animosities or state-group relations threaten to erupt into civil wars, communal bloodbaths, and wars of secession.[245]

These weak states could possess strong means — robust militaries that resort to authoritarianism measures — but still be at risk of civil conflict because they lack legitimacy. As a report by the Berghof Foundation

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[237] Goldstone et al (n 5) 201.

[238] F Stewart, 'Horizontal inequalities and conflict: An Introduction and some hypotheses' in F Stewart (ed), *Horizontal Inequalities and Conflict* (2008), 3.

[239] M Sissons and A Al-Saiedi, *A Bitter Legacy: Lessons of De-Ba'athification in Iraq, International Center for Transitional Justice*, ICTJ (2013) 9 <https://www.ictj.org/sites/default/files/ICTJ-Report-Iraq-De-Baathification-2013-ENG.pdf; =Eric Stover>

[240] What experts argue to be a prerequisite for a social covenant, or a society-to-society agreement see S Kaplan and M Freeman, 'Beating ISIL: Without identity, Iraqis have no will', *Al Jazeera*, 26 July 2015 <http://www.aljazeera.com/indepth/opinion/2015/07/beating-isil-identity-iraqis-150722133656336.html>

[241] E Hokayem, *Syria's Uprising and the Fracturing of the Levant* (2013) 32

[242] H Abu Hanieh and M Abu Rumman, *The Islamic State Organization: The Sunni Crisis and the Struggle of Global Jihadism* (2015) 162.

[243] K Holsti, *The State, War and the State of War* (1996) 107-108.

[244] ibid, 87, 97.

[245] ibid, 107-108.

elucidates, "lack of legitimacy… is a core ingredient of [state] fragility".[246] Poor governance more broadly is linked to conflict and instability, not only because of the relationship between poor governance and legitimacy, but due to its relationship to economic growth. Given the connection between poor governance and conflict onset, it follows that good governance might reduce conflict.[247] Hegre and Nygard identify that informal aspects of good governance are equally as important as formal institution in terms of conflict prevention.

Economic Risk Factors in Conflict and Instability

The WANA region's economies have long been associated with high levels of unemployment, inequality, and an underperforming private sector. Even the Gulf States, which enjoy some of the highest GDP per capita rates in the world, have not managed to exempt themselves from what appear to be regional economic trends. Critically, the WANA region is plagued by glaring discrepancies in economic well- being and prosperity. These discrepancies are attributable to both different resource endowments and levels of policy functionality. In some cases economic decline has pushed states into civil war, while in others it has induced partial reforms, thereby avoiding or delaying unrest. But even those that have successfully evaded conflict feel the economic effects of neighbourhood instability, making the relationship between economic policies, performance and conflict key for advancing resilience.

Dual Dangers: Income and 'Conflict Traps'

Conflicts are costly; this is because conflict both impedes economic growth and thrives in contexts of insufficient growth. Growth is thus promotes resilience, but not just growth in an abstract sense; who grows, and who grows relative to others, is critical.

To fully understand the relationship between growth and conflict, it is important to explain how economic growth responds to conflict. Conflict has a demonstrable impact on a country's economic trajectory. Besides the direct costs of financing wars, conflict and instability destroys capital (financial, human, and cultural), reduces investment and trade, and impedes diversification. Conflict also exacerbates the economic conditions that favour insurgency by increasing poverty, causing capital flight, and destabilising neighbouring countries.[248] At the same time poor economic growth and performance also drive conflict,[249] creating a dangerous and mutually constituting relationship.

Poverty, Inequality and Threats to Stability

The WANA region's real GDP per capita is not low by international standards, averaging US$ 6478 in 2012.[250] But these figures, however, are largely artificial. They are buttressed by the exceptional wealth of the region's oil-producing economies. Yemen and Somalia, for example, exist at the bottom end of the spectrum: [251] around half of their populations are living below the poverty line of US$ 1.25 a day.[252] Poverty is also prevalent in the region's middle-income economies;[253] 26 percent of Egypt's population and 14 percent of Jordan's live below the poverty line at some point during the year.[254] This exposes a duel threat.

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[246] Berghof Foundation, *Legitimacy in fragile post-conflict situations – why it matters for peacebuilding and conflict transformation* <http://www.berghoffoundation.org/fileadmin/redaktion/Publications/Grantees_Partners/UoQ_Grant_Framing_Paper.pdf>
[247] H Hegre and N Nygard, 'Governance and Conflict Relapse'. *The Journal of Conflict Resolution*, (2014).
[248] Ibid 1.
[249] *Sustainable Development Goals and Justice Report*, WANA Institute (2015) 7.
[250] A Jcube, J Anywawu, and K Hauske, *Inequality, Economic Growth, and Poverty in the Middle East and North Africa*, African Development Bank Group (2013) 8.
[251] The World Bank (n 12); *Poverty in Somalia*, Finance Maps of the World <http://finance.mapsofworld.com/economy/somalia/poverty.html> at 3 September 2015
[252] While poverty has undoubtedly been exacerbated in this part of the world by political instability, alarming rates of poverty predated conflict and uprisings.
[253] As defined by the World Bank, Middle Income Economies are those whose GDP per capita is more than US$ 1,045 but less than US$ 12,736.
[254] 'Hunger, poverty rates in Egypt up sharply over past three years – UN report', *UN News Centre*, 21 May 2013 <http://www.un.org/apps/news/story.asp?NewsID=44961#.Vegp7fmqqkp> at 25 August 2015.

First, low levels of GDP are associated with a higher risk of civil war onset.[255] Fearon and Laitin's research on the conditions that favour insurgency found that each additional US$ 1,000 of per capita income lowers the risk of conflict by 35 percent in any given year.[256] Collier reaches similar conclusions, finding that each percentage point off the growth rate of per capita income raises the risk of conflict by an equivalent of one percentage point.[257]

Second, the relative poverty that exists in the WANA region is particularly pernicious. Specifically, absolute poverty (a deprivation of basic human needs), in the context of broader inequality, is a conflict driver. There is also evidence that income inequality leads to social dysfunction and that less equal societies do worse in terms of health, education and general well-being.[258] In the WANA region, the income share held by the poorest 20 percent is a negligible 6.8 percent of the total,[259] with average income inequality for the region sitting at 38.2 percent.[260] Reducing inequality and poverty is thus important, both in its own right, and also as a means of reducing instability.

A further impact of inequality is that it translates into a shrinking middle class. The middle class is a major force of stability in any society but in the WANA region it represents only a two percent share of the global middle class. Some hypothesise that a healthy middle class sustains the democratic tendencies necessary for economic and political development, and that conflict arises when this middle class is too small to sustain these tendencies. Others argue that weak democratisation stems from the region not possessing the requisite economic and social basis,[261] stripping it of the protective functions democracy seems to offer middle income states.

A Stunted Private Sector

A collective failure of WANA states, rich and poor, has been their inability to develop a private sector that is independent, competitive and integrated with global markets.[262] Small and medium-sized enterprises represent just 25 percent of the GDP in Saudi Arabia and 33 percent in Egypt, compared to more than half of the GDP contribution in both the US and Germany.[263] The private sector is hailed for unlocking a country's developmental potential; likewise, industrialisation creates jobs, transfers developmental know-how, and expands a state's export base. In WANA however, private business activity is notable for its limited export presence, few productive spill-overs across firms, and one of the lowest rates of productivity in the world.[264] Even countries that have made serious strides towards liberalising their markets and opening state-owned enterprises to privatisation and foreign investment still rank low according to the World Bank's Ease of Doing Business index. As of 2014, the regional average was 114 out of 189, with most of the region's economies ranking below 100 (the exceptions being the UAE and Turkey).

Beyond the economic dimension, it is imperative to understand why an underperforming private sector is a *political* problem. A stunted private sector cannot provide sufficient income and employment for citizens. As a result, the state is forced to expand beyond its basic role of governance into being *provider*, heavily misconstruing the conditions of the social contract. This is how the traditional role of the Arab state as a welfare provider emerged in 1970s. One of the main ways Arab states extend welfare is through food subsidies, which are notorious for unintended economic and social ramifications. In the region's oil-exporting countries, for example, supporting fossil-fuel prices has long been considered a means of redistributing

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[255] H Hegre and N Sambani. 'Sensitivity Analysis of Empirical Results on Civil War Onset' *Journal of Conflict Resolution*, 50(4) (2006), 508-435.
[256] Fearon and Laitin (n 52) 18.
[257] P Collier, 'Economic Causes of Civil Conflict and their Implications for Policy' *University of Oxford* (2006), 6.
[258] R Wilkinson and K Picket, 'The Spirit Level: Why Equal Societies Almost Always Do Better' (2009).
[259] Jcube, Anywawu, and Hauske (n 107) 10.
[260] ibid.
[261] C Issawi cited in *The Economic and Social Foundations in the Middle East* (1970).
[262] A Malik and B Awadallah, *The Economics of the Arab Spring*, Centre for the Study of African Economies (2011) 5.
[263] R Shediac, S Bohsali, and H Samman, *The Bedrock of Society: Understanding and Growing the MENA region's Middle Class*, Booz and Company (2013) 11.
[264] Malik and Awadallah (n 119) 7.

wealth gained by the state from selling oil. Besides the fiscal pressures this creates,[265] low fuel prices have driven domestic over-consumption of hydrocarbons and reduced the competitiveness of renewable energy projects.[266] Diverted public spending also represents an opportunity cost. For oil exporters, total pre-tax energy subsidies exceed spending on education and health, while in Egypt, Jordan, and Lebanon spending on total pre-tax energy subsidies was higher than spending on capital, health, or education.[267]

But it is subsidies' link to public opinion and stability that makes them a particularly flammable issue. Given their inherent unsustainability, their retraction is inevitable. As discussed above, this can and has fuelled protest and social unrest. It is noteworthy that in the days following the collapse of the Mubarak's regime, Saudi Arabia announced a social welfare package worth US$ 10.7 billion, featuring pay raises for government employees, new jobs and loan forgiveness schemes. By the end of the month, handouts totalled US$ 37 billion. That March the King announced an additional US$ 93 billion in social spending.[268] These examples highlight the inherently politically sensitive nature of subsidies, and the fragile state-society relations they foster.

Unemployment and a Bloated Public Sector

The most direct manifestation of the welfare state model has been the WANA states' role as a primary employer. A stunted private sector and slow growth means that the economy does not generate enough activity to keep all those able and willing to work employed. The result is that in many countries the public sector employs between 14- 40 percent of all workers; government wages in the region amount to 9.8 percent of GDP, the highest worldwide.[269] States do this because they understand the link between unemployment and regime stability. The policy is not even completely effective; unemployment is still high even in countries with disproportionate public sectors. Youth unemployment is most concerning at 27.2 and 29 percent in the Middle East and North Africa respectively,[270] with studies having found youth unemployment to be significantly associated with increased risk of political instability.[271]

Rentierism and Stability

The role of the Arab state as a subsidy and employment provider is a manifestation of a problematic economic structure that pervades the region — rentierism. Resource over-dependency leaves insufficient incentives to engage in productive economic activity. Moreover, countries that rely on primary commodities tend to be 'under- bureaucratised' for their GDP level, thus having weaker institutions and being more prone to conflict.[272] At the same time, conflict seems to transform societies into more primary-commodity dependent economies.[273] Collier and Hoeffler's research suggests that, up to a point, countries with higher levels of primary commodity exports provide better opportunities for rebels to finance themselves through looting. Besides financing rebellion, natural resources also increase the risk of conflict by offering a prize or 'honey pot' to control.[274] The real-time analogy is ISIS, which partly funds itself by selling looted oil on black markets.

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[265] 'Gulf energy subsidies worth US$160b a year: World Bank', *International Business Times*, 5 November 2014 http://www.businesstimes.com.sg/energy-commodities/gulf-energy-subsidies-worth-us160b-a-year-world-bank> at 15 August 2015.

[266] C Charles, T Morenhout, and R Bridle, *The Context of Fossil Fuel Subsidies in the GCC region and Their Impact on Renewable Energy Development*, International Institute for Sustainable Development (2014) iii.

[267] C Sdralevich et al., Subsidy Reform in the Middle East and North Africa: Recent Progress and Challenges Ahead, the International Monetary Fund (2014) 19.

[268] 'To Stave Off Arab Spring Revolts, Saudi Arabia and Fellow Gulf Countries Spend $150 Billion', *The Wharton School of the University of Pennsylvania*, 21 September 2011 < http://knowledge.wharton.upenn.edu/article/to-stave-off-arab-spring-revolts-saudi-arabia-and-fellow-gulf-countries-spend-150-billion/> at 11 August 2015.

[269] L Bteddini, *Governance and Public Sector Employment in the Middle East*, The World Bank (2012).

[270] Ibid; 'Youth unemployment in Rich Middle East a Liability', *CNBC*, 15 October 2015 <http://www.cnbc.com/2014/10/15/youth-unemployment-in-rich-middle-east-a-liability-wef.html>.

[271] T Azeng and T Yogo, *Youth Unemployment and Political Instability in Selected Developing Countries*, African Development Bank (2013) 4.

[272] Fearon and Laitin, above n 52.

[273] P Collier et al., *Breaking the Conflict Trap* (2003) 84.

[274] Collier and Hoeffler (n 54) (2004).

In the non-oil producing countries of WANA, other forms of rentierism have emerged, mainly foreign aid and remittances. WANA countries receive the highest overseas development assistance in per capita terms, whereas North Africa has consistently been the biggest recipient of net aid per capita since the 1960s.[275] Like oil rents, aid stifles economic and political incentives, turning economies away from production and towards patronage. They also exacerbate other conflict risk factors, by driving a bloated public sector and its ability to provide employment and subsidised public consumption.

Even if states could continue financing the welfare state model, rentierism has failed to translate material gain into well-being. This is where its vulnerability and potential role as a driver of instability lies. The litmus-test is the Human Development Index (HDI), a metric that takes into account life expectancy, literacy, education, standards of living and quality of life. Globally, GDP per capita and HDI rankings tend to correlate, but this is not the case for rich countries in the region. Qatar, for example, has the world's highest GDP per capita rate, but ranks 31st on the HDI.[276] Thus even where states are successful at delivering wealth to its citizens, such wealth cannot shield it from other drivers of instability, such as unemployment and relative poverty.

Conclusions: Modalities for Resilience

This chapter has examined the extant literature on risk factors for civil conflict and instability in the WANA context from an inter-disciplinary perspective, incorporating contributions from economics, international relations and sociology. Some relationships are clearly made out. For example, there is significant evidence that regime type and institutional functionality have a relationship with conflict, and that states that have had a recent conflict are more likely to experience another one. The unravelling of Iraq's democratic experiment provides a clear example of how weak horizontal and vertical legitimacy can be a lethal recipe in post-war contexts. The influence of social injustice and human rights deficits is also easy to identify in the region's conflicts. The Arab Spring showcased how justice and governance deficits can lead people into the streets, provided there is a suitable trigger; Bouazizi's self-immolation, Khaled Said's killing and Hamza Ali Al-Khateeb's death constituted key events in the timeline of the uprisings. In terms of economics, relative inequality, both within and between WANA states, was established as a conflict and instability risk factor. Growth was also shown to have a relationship with conflict: poor growth is both a driver and consequence of conflict. The region may even have a 'Middle Class Effect,' but this requires further empirical testing.

Other relationships remain ambiguous. The evidence on the role of religious and ethnic diversity was divergent, and there is insufficient data on the impact of tribal-national identity in fuelling conflict, suggesting a need for more sophisticated analysis.[277] Another underexplored area is the extent to which contagion played a role in the popular mobilisations of 2011. Sociology — specifically Social Movement Theory — may provide a useful model for better understanding how one uprising might create the appearance of a political opportunity, thus contributing to another.

A broader finding is that mono-causal explanations for civil conflict and instability in the WANA region should be rejected. Instead, risk factors are interconnected and mutually constituting in nuanced ways. For example, the WANA region appears to be particularly at risk of instability engendered by food, water and energy insecurity. Countries are trying to counter this through 'virtual water' (sourcing food through international markets), exposing states to additional risks attendant on volatile international food prices. Climate change is likely to put further pressure on food, water and energy systems and drive displacement, which will likely bring with it political contestation. These cases serve to highlight how closely the region's challenges are interconnected.

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[275] Malik and Awadallah (n 119) 9.
[276] Human Development Report, *United Nations Development Program* (2014).
< http://hdr.undp.org/sites/default/files/hdr14-report-en-1.pdf/> at 8 December 2015
[277] Fearon and Laitin (n 52); Goldstone et al (n 5) 201; Collier, above n 1, 121-140; Collier, Hoeffler and Rohner (n 93).

As explained in the introduction to this chapter, identifying risk factors cannot directly reduce or eliminate conflict. But such insights may create more opportunities to raise policies and interventions that can heighten states' resilience. By making available timely, evidence-based guidance on specific vulnerabilities, governments, donors and development-humanitarian actors will have better tools to work together on ameliorative policies and programmes. States may take broad actions to build resilience, such as eliminating subsidies or making them more efficient; or sector- specific actions such as wastewater reduction or investment in renewables. Such aversive actions must take place alongside positive development interventions. Bolstering the private sector and encouraging a strong middle class, for example, also requires policies that promote equal opportunity, participatory governance and an empowered civil society. These examples suggest that this is no 'magic bullet' for resilience, but instead what is needed is a comprehensive approach that recognises the interconnectivity between environmental, political, and economic challenges.

Even then, some difficult issues remain. If a state is unfortunate enough to have a disproportionate amount of mountainous terrain, a reasonable question is, what can be done about this? Obviously, not a lot. But understanding how mountains influence conflict dynamics provides at least some component of the answer. From this understanding, new policy insights can evolve and provide a foundation for more pragmatic solutions. Latest thinking is that mountainous terrain is problematic because of the associated governance issues — perhaps because poor infrastructure linking communities detracts from a sense of national identity and encourages tribalism. Or perhaps government schemes — be they educational, health or other — do not reach these communities, driving anger and resistance.

More sophisticated thinking might also give way to new solutions, based on the notion of regional resilience. The terrorist group ISIS, for example, now has a foothold in Afghanistan, as well as Syria and Iraq. Clearly, targeting the group in one territory will not be sufficient if they can find sanctuary in another. Developing a regional architecture to deal with such issues may constitute a new and more effective policy direction. In short, where state action alone cannot address a threat, it is perhaps through regional resilience that vulnerability to conflict and instability can be reduced.

One hardly needs a chapter on conflict drivers to establish that the outlook for many states in the WANA region is ominous. Where metrics matter is for understanding the relative significance of the conditions contributing to conflict and unrest. This knowledge can empower policymakers to understand the nature of their specific fragilities and determine potential areas for transformation. It is hoped that the findings presented here will prove valuable in this transition towards state and regional resilience.

The Syria Tragedy: Post-Conflict Contingency Planning

Emily Hawley

The facts of the Syrian crisis are disheartening. Since the first protests began in March 2011, over 250,000 people have died. The UNHCR reports that the number of Syrian refugees now amounts to more than four million, while approximately 7.6 million have been internally displaced — meaning that approximately half of Syria's population has been uprooted.[278] Criminality on all sides has fostered intractability and unconstructive 'black-and-white' thinking. International peace plans have failed, and foreign interference has tended to escalate the conflict rather than ease a political solution. Given these obstacles, thinking ahead to a period when Syria's conflict is fully or partially resolved may appear premature. However, while the nature of any Syrian outcome remains unclear, when a settlement does take place, the risk that Syria will fall back into conflict is alarmingly high. The evidence is that 39 percent of states emerging from conflict return to war in the first five years and another 32 percent in the following five years.[279] Weapons availability, sectarianism, and foreign interference may lift this risk even higher.

Mistakes made in Iraq and Afghanistan highlight the many pitfalls of external intervention and foreign-led reconstruction, with a connection between these missteps and current violence discernible. These failures have constrained both action in and thinking on Syria. However, the people of Syria cannot afford to have future assistance imperilled by past errors. The argument presented in this chapter is that the risk of conflict recidivism is so high, and the costs of this — in both financial and humanitarian terms — so great, that action must be taken to proactively plan for any Syrian calm.

Genuine planning for a future post-conflict Syria first requires an understanding of the complexities of the crisis and its drivers and the pre-existing security and governance framework. In response, this chapter details the demands of the Syrian uprising and the factors that triggered Syria's descent into violence. It then provides an overview of parties to the fighting and insight into the disintegration of Syria's social cohesion. It concludes by mapping out four potential outcomes within which it might be possible for refugees to return, reconstruction to start and broader governance planning to occur.

Outbreak of the Syrian Conflict

In the first months of 2011, experts saw little chance of a Syrian uprising emulating those in Egypt and Tunisia. President Bashar al-Assad had distinguished himself as a reformer, at least compared to his father, Hafez al-Assad, and fellow Arab leaders. During Bashar's early days in office, a period known as the 'Damascus Spring' heralded a temporary lightening of repressive policies. Moreover, the President's long championing of the Palestinian cause and strong stance against the US granted him a degree of credibility with the Arab street not shared by his fellow autocrats. Fear also discouraged protests; Syria's history of brutal repression had long dulled vocal dissent. And Syria's numerous minority groups feared a Muslim Brotherhood power seizure in the event of political disruption.[280] When no significant protest movement had materialised by mid-March 2011, the subdued Syrian streets seemed to be falling in line with expectations.

zSyrians' demands focused on the political, but there were also economic and climate- related motivators for the revolution. Bashar al-Assad›s Government pioneered economic reforms turning Syria into a social market economy. These policies fuelled corruption and produced inadequate job growth for the expanding population, particularly the rising numbers of young people. Leading up to the Arab Spring, a four-year

[278] D Al Rifai, "Syrian Refugees Near Four Million Amid Intense Fighting", *Al Jazeera*, 6 June 2015.
[279] P Collier, *Wars, Guns and Votes* (2007) 57.
[280] J Gelvin, *The Arab Uprisings: What Everyone Needs to Know*, Oxford University Press (2012), 101.

drought destroyed Syria›s formerly self-sufficient wheat production and forced up to 1.4 million people to abandon their rural lives for opportunities in nearby cities. This rural-rooted discontent helps explain why Syria›s uprising emerged outside of the urban hubs of Damascus and Aleppo.[281]

When the revolution began, few expected Assad to step down as placidly as Tunisia›s Ben Ali or even Egypt›s Mubarak. Instead, hopes peaked at Assad bending to unprecedented pressure to reform. The intellectual leaders of the uprising hoped that amidst the pressure created by the wave of regional dominoes, long called for reforms might be enacted. These included: an end to martial law; the pardoning of political prisoners; protections of freedom of assembly, press, and expression; and freedom from surveillance.[282]

It is unlikely that Assad would have been capable of implementing such reforms without sacrificing the tools of manipulation critical to his hold on power. Thus, the masses who surprised the world by charging into the Syrian streets may have calculated more correctly; real reform required Assad›s departure. By the time the Syrian National Council, the original coalition of Syrian opposition groups, consolidated their demands in September 2011, reform was no longer a real option. Instead, they called for a modern civil state with constitutional protections for human rights and freedoms.[283]

Incendiary Factors
Sectarian Divisions

The same factors that explain the Assad regime›s rigidity also made the Syrian context explosive. The most apparent spark was religious sectarianism. Syria is predominantly Muslim and majority Sunni, with Alawite, Ismaili and Shi'a Muslims making up another 13 percent of the population; ten percent are Christian, three percent are Druze and there is a small Jewish population.[284] The Assads are a minority religion; their small religious sect, the Alawites, is controversially categorised as an offshoot of Shi'a Islam.

In general, the Assads' secular stance garnered support from Syria›s minorities, and the ongoing conflict is thus often categorised in *Sunni-Shi'a* terms. This divide has been widened by external involvement of the region's Sunni and Shi'a powers. But sectarianism is only part of the story. The Kurdish independence movement stands separate from inter-religious issues. Moreover, many Sunnis still stand with Assad, while some Alawites and fellow minorities joined the uprising from its outset.

A Violent Legacy

A second incendiary factor is Bashar al-Assad himself and, more importantly, the merciless strategy he inherited from his father. In the face of dissent, Hafez al-Assad silenced one rebellious area at a time at great human cost. Dozens of massacres are attributed to Assad's father, most infamously those at Tadmor Prison and Hama in 1980 and 1982 respectively. To ensure troops' commitment to these strategies, Assad selectively chose which units engaged in the initiatives and paired them with elite Alawite forces. Hafez also established the precedent employing citizen militias of Ba'athist sympathisers.[285]

Bashar al-Assad has emulated his father›s strategy; he selectively deploys his most loyal forces, grounding up to two-thirds of the army›s "doctrinal combat power"[286] and relies heavily on loyal Syrian paramilitaries (in addition to those of Hezbollah and Iran). Wide displacement has dispersed sectarian conflict throughout the country. Further, in forcing civilians from insurgent-held areas, the Government has heightened geographic

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[281] Gelvin, above n 3, 108.

[282] "Statement by 99 Syrian Intellectuals", *al-Hayat*, 27 September 2000, as cited in I Alvarez-Ossorio, "Syria's Struggling Civil Society: The Syrian Uprising", *Middle East Quarterly*, Spring 2012, 23-32.

[283] S Heydemann, "Syria's Opposition", *USIP*, 20 September 2011. <http://www.usip.org/publications/syrias-opposition> at 25 September 2015.

[284] "Syria", *The World Factbook*, 21 May 2015, <https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html> at 13 June 2015.

[285] See generally, J Holliday, "The Assad Regime: From Counterinsurgency to Civil War", *The Institute for the Study of War*, March 2013, 17.

[286] ibid 15.

[287] ibid 10, 20.

sectarian divisions.[287] In general, Assad's military strategy has exacerbated national divisions, adding truth to the regime's rhetoric on opposition extremism.

Hardliners and Hard Solutions

Extremist groups like the so-called Islamic State (referred to here as Daesh) and Jabhat al-Nusra, Syria's al-Qaeda branch, have no interest in a negotiated solution. Moreover, strategic neglect by the Syrian regime has allowed the revolution›s most rigid-minded actors to dominate the opposition. From the beginning of the conflict, Assad›s forces have actively targeted moderate rebels while allowing extremists to gain influence. At times, the regime has directly enabled victories, evacuating troops at the first sign of these extremist groups' involvement. While this strategy threatens any chance for a future united Syria, it fosters doubts within the international community about the viability of opposition partners.[288]

Foreign Intervention

Assad's Syria has served as a channel for personnel, finances, and weapons between Iran and Hezbollah. This strategic linkage motivates a deep commitment by the two Shi'a powers to maintaining Assad›s power.[289] Iran provides direct financial assistance to the Assad Government and pro-Government *shabiha*, or militias, in addition to sponsoring foreign Shi'a militia involvement in the conflict.[290] For regional Sunni powers like Saudi Arabia and Qatar, that same linkage adds appeal to Assad's removal. Assistance to opposition forces by Turkey, Qatar and Saudi Arabia and Iranian, and Hezbollah assistance to the Syrian Government, has helped to perpetuate and escalate fighting, prompting many analysts to consider Syria's violence a proxy war between rivals Iran and Saudi Arabia.

In another layer of external intervention, Russia and Syria have been allies since the Cold War, and Syria is one of Russia›s key geopolitical links to the region. In addition to wanting to ensure Russia's influence in Syria post-conflict, Russian President Putin views the decline of authoritarian states in the WANA region as a real security threat, empowering violent Islamic extremism on Russia's borders. Russian military intervention in Syria since September 2015, while ostensibly to defeat Daesh, defends regional authoritarianism while also demonstrating Russian commitment to its allies.[291] Russia's entry into the Syria conflict, while taking a stance on the conflict opposed to the stated preferences of the US, has spurred speculation of a second US- Russian proxy war in Syria. A 26 percent increase in the number of Syrian refugees between September and November indicates the humanitarian cost of such intensifications.[292]

Belligerents and Actors in the Syrian Conflict

Before detailing the progression of the Syrian conflict, it is important to understand the different parties involved and their relationships to one another. The fighting can no longer be easily categorised as regime versus opposition; instead it has been pulled into a shifting multi-belligerent conflict. The mainstream opposition now faces off with the Assad regime, Daesh, and sometimes Jabhat al-Nusra. Meanwhile, Syria's minorities find themselves struggling to pursue their own interests within a conflict that is increasingly painted in Sunni versus Shi'a terms. In an additional complication, Kurds have executed a careful balancing act as they carve out their own autonomous territory, avoiding overtly targeting the Assad regime while defending their territory from Daesh. Even Syria's Kurds are ridden with divisions and infighting.

Particular care must be taken to understand the complex components of Syria's opposition; their network is vast, disparate and constantly evolving. The internationally-recognised representative of the Syrian opposition is the Turkey- based National Coalition for Syrian Revolutionary and Opposition Forces. The

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[288] "Syria: Countrywide Conflict Report No. 5", *The Carter Center*, February 2015, 11.

[289] Holliday, above n 8, 10.

[290] M Eisenstadt, S Henderson and M Knights et al, "The Regional Impact of Additional Iranian Money", *The Washington Institute for Near East Policy*, 28 July 2015.

[291] A Stent, "Putin's power play in Syria: how to respond to Russia's intervention", *Foreign Affairs*, 1 January 2016, Vol. 95¬, Issue 1.

[292] ibid.

Coalition headed the loose grouping of opposition forces referred to as the Free Syrian Army (FSA), now considered defunct. Instead, the two most powerful armed opposition groups in Syria are Jaysh al-Islam and Ahrar al-Sham. Neither group represents the moderate, secular vision advocated by the Syrian revolution's early thought leaders, although they do oppose Daesh. Both groups have made rhetorical steps towards moderation that are counterbalanced by contradictory statements and, in Ahrar-al-Sham's case, close links to al-Qaeda. The 'moderate' opposition that the US-coalition aims to empower is more fractured and less powerful. However, Brookings expert Charles Lister estimates the many moderate factions field some 75,000 fighters in total. Lister explains that, despite many ideological differences, these groups share an explicitly nationalist vision and are made up of local fighters. They advocate a multi-sectarian Syrian state with equality before the law. The two largest groups are the Southern Front and the Northern FSA.[293] Of the groupings, the Southern Front is broadly considered the most effective, genuinely moderate force on the ground.[294]

Al-Qaeda affiliate Jabhat al-Nusra and Daesh are the most notorious Islamist extremist organisations on the ground in Syria. These groups, particularly Daesh, have diverted the attention of powers like the US away from deposing President Assad. Although both organisations emerged from al-Qaeda in Iraq (AQI), Jabhat al-Nusra, which was announced as an AQI offshoot in January 2012, is considered al-Qaeda›s official Syria branch.[295] Despite its al-Qaeda linkage, al-Nusra is distinctly Syrian. Al-Nusra does not take direct orders from al-Qaeda leader Ayman al-Zawahiri, although he provides religious guidance and legitimacy for al-Nusra's foreign donors. Jabhat al-Nusra has proven amenable to collaboration, working at times with Daesh and at others with the opposition. Al-Nusra›s relations with the mainstream opposition have shifted over time and vary geographically.

Daesh cannot be classified as a standard rebel group in Syria; its leadership is foreign, its territorial holdings are transnational, and it ideological aspirations extend beyond Syria. The group's goals are distinct from those of al-Nusra, and al-Qaeda leader Ayman al-Zawahiri disavowed the group in 2014. In June 2014, Daesh proclaimed itself a Caliphate, marking the first step towards its goal of recreating the time of the Prophet Mohammad. A month later, massive territorial grabs in Iraq lent Daesh the gravitas to go with the title.[296]

Progression of the Syrian Conflict and Descent beyond the Rule of Law

In 2011, Syrian demonstrations escalated quickly when the Government, alongside superficial attempts to meet various protesters' demands, cracked down by force. Despite the official repeal of Syria's Emergency Law (one gesture of reform), soldiers and tanks violently suppressed activities in restive areas without repercussion. In response, once peaceful demonstrators started taking up arms for self-protection. Not all of Syria's armed forces went with the crackdown; in July 2011, a group of Syrian army defectors announced the FSA. By August, the violent uprising of Assad's rhetoric was largely taking shape on the ground.[297] With a vacuum opening for credible Syrian representation, the opposition established the Syrian National Council that same month.

The international community began to get involved as early as May 2011. The US and European Union tightened sanctions against the Syrian Government in an attempt to curb the violence, while Iran stepped up its assistance. After a failed Syrian Government attempt to open a national dialogue, some members of the international community, led by the US and EU, demanded Assad's resignation. The first attempted UN Security Council resolution on the subject, an October resolution condemning Assad›s Government,

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[293] C Lister, "Yes, there are 70,000 moderate opposition fighters in Syria. Here's what we know about them", *The Telegraph; Brookings*, 27 November 2015.
[294] International Crisis Group, "New Approach in Southern Syria", *International Crisis Group*, Middle East Report No. 163, 2 September 2015.
[295] J Cafarella and C Cozak, "Likely Courses of Action in the Syrian Civil War June-December 2015', *The Institute for Study of War*, 4.
[296] "Syria Countrywide Conflict Report No. 5", above n 11.
[297] L Arimatsu and M Choudhury, "The Legal Classification of the Armed Conflicts in Syria, Libya and Yemen", *Chatham House*, March 2014, 9.

was vetoed by Russia and China. However, an Arab League peace plan looked to have more success when it gained Assad's approval. When the President failed to follow through with its guidance, the Arab League joined the EU and US in sanctioning Syria.

Over 2012, Syria›s unrest shifted into a non-international armed conflict.[298] The most significant intensification of 2012 likely occurred during a February ground offensive in the FSA-held town of Zabadani, when the Government used artillery against its own population.[299] By that point the regime had already committed numerous mass killings (usually via loyalist militias), but attacks had been limited to ground assaults; shelling its own population marked a significant strategic shift.[300] 2012's most infamous event may have been the Government's May assault on the village of Houla, massacring 100 people, nearly half of them children, a move that drew accusations of war crimes.

Over this period, the armed opposition gained organisational structure and territory in restive governorates, seizing control of large segments of northern and eastern Syria and launching offensives in Damascus and Aleppo. Aleppo, Syria›s largest city and former commercial capital quickly became a focal point in the conflict and saw hundreds of peaceful protesters and affiliates arrested by Government forces, killed or 'disappeared'.[301] The regime first used barrel bombs, improvised explosive devices (IEDs), cluster bombs and surface-to-surface missiles in Aleppo in August 2012.[302]

As violence increased, the Arab League withdrew its observers from Syria for their own safety and called for Assad to step down. By March 2012, even China and Russia had agreed to support a watered-down draft of a non-binding UN Security Council peace plan and approved sending monitors to check the plan›s progress. In June, security risks led the UN to suspend its observers, and in August, UN High Commissione for Human Rights Navi Pillay called on the UNSC to refer the Syrian situation to the ICC.[303]

By the end of 2012, regime force ground attacks, which had provided opportunities for troop defection, had largely been abandoned. Instead, the Syrian Government implemented their current strategy: encircling and besieging populated areas followed by bombardment and shelling. Those wounded and trying to flee are arrested and disappeared, as are any individuals caught trying to enter.[304] Such collective punishment means that when rebels win territory, they risk losing popular support.[305] Armed groups under the FSA banner have violated the law as well.[306] By the end of 2012, the UN reported that both sides had committed crimes against humanity.

Already a non-international armed conflict, by 2013 Syria witnessed the beginnings of significant Daesh and Hezbollah involvement, as well as the Government's most notorious use of chemical weapons. In the first half of 2013, Daesh pressed Jabhat al- Nusra from Raqqah, the city that is now its Syrian powerbase; rebels gained steam; and the Syrian regime matched rebels' rising capacity with increased brutality. In July, the Government began besieging the Yarmouk Palestinian refugee camp,[307] and in August, the regime used

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[298] "An armed conflict exists when there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups, or between such groups within a State", "A/HRC/S-17/2/Add.1", *Independent International Commission of Inquiry of the Syrian Arab Republic (CoI)* as cited in Arimatsu and Choudhury, above n 20.

[299] D Enders, "Syrian forces retake Zabadani as rebels withdraw, refugees say", *Miami Herald*, 22 February 2012, <http://www.miamiherald.com/incoming/article1939549.html> at 14 July 2015.

[300] Holliday, above n 8, 23; 25.

[301] "Death Everywhere, War Crimes and Human Rights Abuses in Aleppo, Syria' *Amnesty International*, 4 May 2015, Index number: MDE 24/1370/2015 5.9, 11.

[302] ibid 11; OHCHR, "Human Rights Council Twenty-seventh session Agenda item 4: Human rights situations that require the Council's attention Report of the Independent International Commission of Inquiry on the Syrian Arab Republic" *UN General Assembly*, 5 February 2015.

[303] Press Release, "Security Council Briefers Highlight 'Prevailing Disrespect for International Humanitarian Law as Security Council Considers Protection of Civilians in Armed Conflict, SC/11097. Rev, 1, 19 August 2013, as cited in "Reasons for Displacement: Documenting Abuses Against Syrian Civilians", *American Bar Association: Rule of Law Initiative*, December 2013, 3.

[304] OHCHR, above n 25.

[305] Holliday, above n 8.

[306] OHCHR, above n 25, 5.

[307] 'Syria: Squeezing the Life out of Yarmouk: War Crimes Against Besieged Civilians", Amnesty International, 10 March 2014, Index number: MDE 24/008/2014.

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chemical weapons on two rebel-held areas near Damascus.[308] The chemical weapons usage followed a US Government proclamation drawing a 'red line' in further chemical ordinance use in Syria. Careful Russian manoeuvring helped the Syrian Government slip by with a deal to destroy remaining chemical weapons. Drowned out by the media flurry over chemical weapons usage, the Government increased its use of barrel bombs, by then a mainstay of the conflict.[309]

The latter half of 2013 saw the progress of moderate rebels falter. Some dozen groups left the Syrian National Coalition in September and renounced its call for a civil democratic state. A group of these would later form the Islamic Front, encouraging further attrition from the weakened National Coalition. Despite their vocal support for the rebels, Western and Gulf allies officially rejected appeals for heavy weaponry. While foreign states' involvement in the conflict remained understated, the conflict's weight on the international community, particularly its immediate neighbours, was growing more obvious. The number of UN registered Syrian refugees topped one million that March.

Despite the fighting's continued classification as non-international, Daesh's surge in power dramatically changed the landscape of the conflict, spurring infighting among Syrian rebels and distracting the international community from the contest between rebels and regime. Early in 2014, Daesh consolidated its hold on Raqqah, expanded in Syria's northeast and made significant territorial gains in Iraq, emerging onto the scene as a forceful new militant power. However, it was the mass broadcasting of the group's beheading of American journalist James Foley in August that provoked international action and the formation of the US anti-ISIS coalition. The video is characteristic of Daesh's brutality and disregard for laws of war.

Daesh's extremism incited discord among the rebels, encouraging the breakdown of the first round of the Geneva II peace talks in January. A second round of talks collapsed in February before groups could even decide an agenda, leading Joint Special Envoy Brahimi to step down.

With rebels riddled by factions, the Syrian regime continued its brutal assault on Aleppo and won a major symbolic battle when it retook Homs in May. However, with Daesh on the rise in Iraq, thousands of its Iraqi Shi'a militants left Syria. The Iranian Islamic Revolutionary Guard Corps (IRGC) made up for the lost manpower by deploying foreign fighters to Syria. Iran has since taken a more direct role in command control, and even recruitment efforts within Syria.[310]

In 2015, international involvement rose to unprecedented levels in response to Daesh's ascendance. The first half of 2015 saw successes for Syrian Kurds against Daesh and the opposition against the regime. While Kurdish gains have held, opposition successes were met with a resurgence in foreign support for Assad.

With US coalition support, Kurdish forces successfully fended off Daesh's offensive on Kobani in January and seized Tel Abayad, a critical transport link, in June.[311] However, overall, the US coalition's Iraq-focused effort to combat Daesh offers the group a semi-safe haven in Syria and limits efforts on both fronts. Despite its Kurdish losses, Daesh actively pursued expansion while consolidating its grasp on seized territory. In May, its gains included a dramatic triumph over the ancient Syrian city of Palmyra.

Two coalitions marked a transitional phase for Syria's opposition. First, the Levant Front was formed from a collaboration of Revolutionary Command Council members — a coalition of all but the most hardline Syrian factions and Kurdish groups. It represented wide-ranging parties from the Islamic Front and Muslim Brotherhood to the FSA or its replacement, the Supreme Military Council (SMC). However, to the disappointment of its foreign backers, the dissent-ridden group dissolved at the end of April.[312]

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[308] "Syria: Government Likely Culprit in Chemical Attack", Human Rights Watch, 10 September 2013, <https://www.hrw.org/news/2013/09/10/syria-government-likely-culprit-chemical-attack> at 20 July 2015.

[309] Amnesty International, above n 24, 11.

[310] C Kozak, "An Army in All Corners: Assad's Campaign Strategy in Syria", *Institute for the Study of War, Middle East Security Report*, 26 April 2015, 4.

[311] C Krauthammer, "A new strategy for Iraq and Syria", *The Washington Post*, 18 June 2015.

[312] A Lund, "The End of the Levant Front", *Carnegie Endowment for International Peace*, 21 April 2015, <http://carnegieendowment.org/syriaincrisis/?fa=59855>, at 15 July 2015.

Nonetheless the rebels' joint initiative near Aleppo marked the first broad collaboration against Assad forces since 2012.[313]

The second coalition proved more effective. Called Jaysh al-Fatah (Army of Conquest), the coalition of mostly hardline extremist Islamist groups formed in a "military alliance of convenience."[314] The group has led some of the opposition's greatest battlefield successes in coordination with Jabhat al-Nusra. Notably, the group has also partnered with the more moderate Southern Front.[315] Despite Western misgivings regarding its al-Nusra ties, Fatah has broken barriers in terms of foreign support; unprecedented and overt cooperation between rivals Turkey, Qatar, and Saudi Arabia has been integral to its success.[316] Thus, Fatah's development may be as illustrative of greater foreign actor cooperation as it is of improved rebel organisation.[317] The Jaysh al-Fatah coalition led a ground-breaking campaign in Idlib in March, succeeding in the second seizure of a provincial capital from the regime since the Government lost Raqqah in 2014.[318] Alongside the Southern Front's gains in Quneitra and Dara'a, Syria's armed opposition briefly looked positioned to take on Damascus.[319]

Three developments marked a change in tide for the opposition. First, the opposition's Southern Front, lauded as the bastion of Syria's moderate opposition, lost crucial backing. In September, the Amman-based Military Operations Centre (MOC) cut off support in reaction to severe organisational and coordination failures.[320] Without this support, the Southern Front may disintegrate. A second development was the advancement of the Iran nuclear deal, empowering one of Assad's key backers. Third, the introduction of Russian airstrikes, supposedly targeting Daesh forces, has proved a powerful asset to Assad's defence. The Syrian army broke a Daesh siege on the Kuwairis Airbase in early November and has relaunched its offensive on rebel-held areas south of Aleppo.[321] Moreover, the killing of Jaysh al-Islam leader Zahran Alloush and several other opposition leaders marked a major coup for the Syrian regime, both demonstrating deft intelligence and damaging the structure of what was one of the opposition's best-organised factions.[322]

Broad peace talks on the Syrian conflict began in Vienna in October 2015. Notably, the talks brought Iran and Saudi Arabia together but excluded the Syrian Government and opposition factions, demonstrating how powerful foreign influence in Syria has become.[323] In mid-December, the UN Security Council unanimously approved a road map for a political solution, beginning with UN mediated peace talks between Government and opposition representatives in January. Opposition figures remarked that the organisational blow dealt by Zahran Alloush's death will pose a major obstacle to negotiation efforts, imperilling the delicate peace process.[324]

Overshadowed by the broader intransigence, localised ceasefires in Zabadani and Yarmouk among others offer hope. Although these deals have garnered their own criticism and are implemented with varying degrees of success, they permit aid deliveries and evacuations.[325]

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[313] E Banco, "Syrian Rebels Merge Into 'Levant Front,' Gain Ground In North", *International Business Times*, 26 December 2014, <http://www.ibtimes.com/syrian-rebels-merge-levant-front-gain-ground-north-1767562> at 15 July 2015.

[314] "New Islamist alliance seizes Idlib from Syrian troops", *France 24*, 30 March 2015, <http://www.france24.com/en/20150330-islamists-syria-seize-idlib-nusra-jaish-fath> at 28 June 2015.

[315] Banco, above n 36.

[316] L Sinjab, "Syria: How a new rebel unity is making headway against the regime", *BBC News*, 1 May 2015, <http://www.bbc.com/news/world-middle-east-32540436>, at 15 July 2015

[317] T Joscelyn. "Al Nusrah Front, allies launch new offensives against Syrian regime", Long War Journal, 23 April 2015,| <http://www.longwarjournal.org/archives/2015/04/al-nusrah-front-allies-launch-new-offensives-against-syrian-regime.php> at 30 June 2015.

[318] "New Islamist alliance seizes Idlib from Syrian troops", France 24, 30 March 2015, <http://www.france24.com/en/20150330-islamists-syria-seize-idlib-nusra-jaish-fath> at 14 July 2015.

[319] J Cafarella and C Cozak, above n 18.

[320] B Al Badarin. "حزب الله" عناصر أو الثوري الحرس اقتراب من ومخاوف ...«العلمانية» السورية المعارضة مع التعاون «تجميد قريبا درعا في سيجري ما «تفاصيل» عن بحث حالة في الأردن," Al Quds, 27, September 2015, <http://www.alquds.co.uk/?p=409648> at 29 September 2015.

[321] "Syria conflict: Army 'breaks IS siege of Kuwairis airbase'", *BBC News*, 10 November 2015, <http://www.bbc.com/news/world-middle-east-34781225> at 10 November 2015.

[322] S Dagher, "Op-Ed: Killing of Syrian Rebel Faction Leader Imperils Planned Peace Talks", *The Wall Street Journal*, 25 December 2015.

[323] M Chulov, "Syria peace talks pin hopes for end to war on Iran and Saudi Arabia", *The Guardian*, 30 October 2015.

[324] S Dagher, above n 45.

[325] AFP, "Syria army, rebels in talks over 15-day truce near capital", *Yahoo News*, 18 November 2015 <http://news.yahoo.com/syria-army-

Potential Syrian Outcomes

Civil wars last an average of 7-12 years,[326] but Syria is not an average civil war. In its fifth year, the conflict shows no sign of abating; it is plagued with too many actors and too many interests at odds with peace. Various 'solutions' recommended range from being limited in nature, excluding vital parts of the Syrian State, or are multi- step processes staggered over time. While far from straightforward, such contexts are likely what peacebuilders will be working to support. This final section outlines what, for the time being, represent the most likely scenarios: a negotiated opposition victory; a rebel-seized victory; a Balkanised Syria with a lingering Assad statelet; and an expanded Daesh territory. These scenarios are not definitive, but rather portray possible options for the time being.

1) A Negotiated Opposition Victory

A negotiated opposition victory would require Assad's immediate or imminent departure. Such a scenario would most likely see interim-joint governance over reunited territory, excluding the semi-autonomous Kurdish region, and areas under Daesh and non-participant opposition control. However popular, any negotiated settlement faces major obstacles. Opposition groups and in-house Government divisions inhibit even internal consensus. More formidably, the two sides' negotiating terms are mutually exclusive. While the single issue uniting the opposition is that Assad must go, the President has made it clear that his power is one aspect of Syria he is unwilling to sacrifice. The power and loyalty of Assad's support structure mean he is unlikely to face internal betrayal; and Russia and Iran hold a great deal of sway in Assad's future.

If negotiations rid Syria of Assad but remain weighted in Iran and Russia's favour, Assad's departure need not involve extensive infrastructural changes. An opposition- favoured settlement, by contrast, would require complete institutional overhaul. Any settlement would necessarily exclude hardliners such as Daesh and Jabhat al-Nusra, and would rely on the participation of armed opposition groups in future state building — they are the force behind opposition leverage and exercise, albeit limited, governance functions in rebel-held territories. The predominance of groups like Ahrar al Sham and Jaysh al Islam mean that any opposition-led Syria will look very different from its secular past. In either case, parties excluded from the settlement would actively challenge reconstruction. Maintaining stability would likely require long-term international involvement, and deep divisions will make a swift or blood- free reconstruction improbable.

2) A Military Opposition Victory

Prospects for an opposition military victory gained momentum following the cooperative relationship that formed earlier this year between regional Sunni powers Saudi Arabia, Turkey and Qatar. In particular, Saudi acquiescence to Qatar's support for Islamist groups in Syria enabled Jaysh al-Fatah's impressive battlefield successes.[327] Such an outlook has arguably faded in the context of a post-nuclear deal Iran, waning international support for the opposition, and Russia's intensified involvement on Assad's behalf.

In any case, unless the opposition undergoes a major transformation, a violent rebel victory worsens Syria's prospects for long-term peace. Efforts to empower the moderate opposition have not translated into efficacy, and the composition of more powerful coalitions is worrisome.[328] A coalition of victors, near-certain to include not only Ahrar al-Sham but al-Qaeda affiliate Jabhat al-Nusra, is unlikely to prioritise the protection, let alone inclusion, of Syria's non-Sunnis. This bodes poorly for hundreds of thousands in Damascus, Latakia and other Government-held territories.

rebels-talks-over-15-day-truce-203458792.html> at 18 November 2015; Besieged Islamists 'To Quit Damascus Suburbs' Under Truce Deal", *France 24*, 25 December 2015, <http://www.france24.com/en/20151225-nusra-islamic-state-evacuate-damascus-yarmouk-qadam> at 25 December 2015.

[326] J Fearon, 'Why Do Some Civil Wars Last So Much Longer Than Others?' *Journal of Peace Research*, May 2004, 8.

[327] W Wilgenburg, "The Rise of Jaysh al-Fateh in Northern Syria", *Terrorism Monitor*, Vol. 13, Issue 12, 12 June 2015.

[328] J Veldkamp, "How to Understand those 60 Trainees," *Syria Comment*, 14 August 2015, <http://www.joshualandis.com/blog/how-to-understand-those-60-trainees/> at 25 October 2015.

3) A Balkanised Syria with an Assad Statelet

As discussed above, Russian escalations in Syria and the Iran nuclear deal may have extended Assad's lifeline. Against this backdrop, the Zabadani ceasefire brokered by Iran and Turkey demonstrates one faint path towards broader calm within a Balkanised Syrian State. This scenario would see a partitioning of Government and opposition territories, with separate Kurdish and Daesh-held areas. A partitioned Syria risks consolidating sectarian identities and, as demonstrated in the Balkans, is not conducive to lasting peace. Moreover, prolonging President Assad's legacy risks accelerating violent extremism within Syria and beyond. However, there are advantages to a future Syria that includes Assad. While opposition territories will face major logistical challenges, the State has functioning institutions. Moreover, the presence of high-level Sunnis in Government ranks and relative pluralism in Damascus indicate a limit to sectarianism. For the secular and minority Syrians fearful of living under Islamist rule, Assad is the safest option.

4) An Expanded Daesh Territory

An expansion of Daesh territory — either militarily or from opposition groups shifting allegiances — would see the imposition of harsh Islamist rule over civilian populations. Despite the 63-member coalition's efforts to "degrade and destroy Daesh", the organisation holds large swaths of territory across Iraq and Syria home to some six million people.[329] T

However, the coalition has limited means to combat Daesh's simplest path of expansion: a reinvigorated Assad Government may encourage Syria's Islamist rebels into their own calculation of lesser evils. Currently, Daesh promotes itself as a defender of Sunnis in Iraq and Syria. If the Sunni opposition's only real alternative is the hand at which they have suffered barrel bombs, mass disappearances, and chemical weapons, the non-Assad option holds a certain appeal.[330] Moreover, in light of its comprehensive vision for an Islamist caliphate, Daesh is the belligerent most committed to the labour-intensive elements of reconstruction. Such efforts are paying off. The group's capacity to implement rule of law and provide services are attracting those weary of conflict.

Displaced Sunnis can choose between uncertain reception in Government territory, crime-ridden and corrupt opposition areas, or welcoming and predictable, if brutal, governance under Daesh. This stability calculus is not limited to internally displaced Syrians; as conditions in host states deteriorate, it may apply to returning refugees as well.

Conclusion: Any Syrian Future?

This chapter has broadly outlined background factors in the Syrian conflict with a view to informing post-conflict contingency planning. It has identified the key actors, minorities, incendiary factors, what Syrians essentially strive for, and four non- exhaustive scenarios. As underscored by Russia's recent intervention, the situation on the ground in Syria is fluid and dynamic; potential Syrian outcomes could look very different a month from now. But understanding these possibilities and their implications highlights the repatriation and reconstruction challenges facing any Syrian future. Planning must reflect these realities. Rather than fixating on an ideal solution, actors should work to design broad and adaptable contingency plans from the options available. From a risk minimisation perspective, outcomes that are structured around loose power-sharing arrangement are most likely to support a fledgling peace. Outright winners create outright losers, who then have little to lose (and much to gain) through actions geared towards destabilising a new state structure. In the case of Syria, there are so many disparate parties accustomed to (and in many cases benefiting from) violence, that the opportunity for spoiler groups to form and succeed is great.

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[329] D Gartenstein-Ross, "How Many Fighters Does the Islamic State Really Have?" *War on the Rocks*, 9 February 2015, < http://warontherocks.com/2015/02/how-many-fighters-does-the-islamic-state-really-have/> at 20 October 2015.
[330] P Engel, "'ISIS will benefit' from the Iran Nuclear Deal", *Business Insider*, 15 July 2015.

If negotiations in 2016 are meaningful and further an agenda of peace, deliberation and dialogue, the context may shift. In such an instance, evidence-based contingency plans will prove a vital tool. Without such information, a moment will not have been seized, and the chances for Syria to relapse back into violence increase. To be effective, reconstruction plans should not be reliant on predictions. Instead, they need dynamism and flexibility; some recommendations broad ranging, others context specific. Plans must identify which changes may heighten post-conflict instability and should prioritise quick visible wins. Any reconstruction context needs well thought- out measures to re-establish rule of law; account for vacuums in civil registration; resolve housing, land and property disputes; and forge security sector reform and demobilisation strategies. These moves require careful sequencing; all are concurrently important to a lasting peace and, as much as possible, should be implemented in parallel and in complement.

When reconstruction moves forward, it needs to be coordinated, even if delegated among diverse reconstruction actors. To limit overlapping mandates or efforts at cross-purposes, there must be centralised monitoring for all areas of reconstruction. Moreover, within each area, responsibility should be turned over to national leadership in full or in partnership at the earliest possible time to encourage government legitimacy, functionality, and accountability.

Evidence shows that an inclusionist approach to all aspects of governance, with peacekeeping front and centre, is the approach most likely to prevent sectarian disintegration. Such an approach will be challenged by spoilers, but inclusive policies can simultaneously allay spoilers' impact. Creating space for and incentivising as broad participation as feasible should be the underlying principle of any rule of law reform or security sector planning. At the same time, power-holders must concede the notion that the fragile post-conflict environment it not an ideal space for the promotion of liberalised values and secularism. However poorly this sits with an internationally accepted rights-based approach, for the sake of averting conflict relapse, customary and Islamic legal frameworks may prove more effective than international norms and should be at the centre of post-conflict governance planning.

Part II:
Social Justice as the Key to Peace

Dr Erica Harper

The introduction to this book outlined a number of challenges facing the WANA region. A common thread in each of these is the impediments caused by social injustice. One outcome of the Arab uprisings of 2011 was a broad realisation that the legal systems of many countries do not afford equal opportunity and protection to large segments of the population. In some situations, laws and institutions impose barriers and biases against the marginalised. In others, low rights awareness, lack of affordable legal services, and inefficient or opaque institutions, mean that justice is inaccessible. Such exclusion from the rule of law is *ipso facto* deleterious, and has proven, negative implications for economic growth, livelihoods, social equity and stability.

Against this backdrop, the WANA Institute elaborated a research pillar around the concept of social justice. We define social justice as an extension of the rights and freedoms outlined in the international framework. Rights such as gender equality, freedom from extreme poverty and protection form discrimination are imperative but do not comprehensively encapsulate other important elements necessary for a life of dignity and wellbeing. Governance, for example, must extend beyond participation to include checks and balances on power and a vibrant civil society. Social justice is an interdisciplinary and multi-dimensional understanding of rights; it sees environmental, socio-cultural, governance and economic justice as complementary and mutually constituting constructs. A utilitarian end such as economic growth, for example, can only be socially just when it promotes equity in wealth distribution, safe and decent employment, and equality of opportunity. Gains must also be shared equitably, so as to not feed inequality, and must be made without negative environmental consequences. In short, social justice envisages improving lives beyond a rights-based framework through the realisation of human dignity, human security and sustainable development.

Legal empowerment is an approach that sits within, and is complementary to, the broader concept of social justice. It is grounded on the idea that poverty persists, partly, because the poor and marginalised do not enjoy legal rights or the power to exercise those rights. Breaking the cycle requires more than a strengthening of the formal justice system; it requires a reliable and efficient framework that addresses the specific needs of vulnerable groups. The theory of change is that giving people power in the form of information, skills and tools, they will be able to protect and uphold their rights, access services equity and demand accountability. Legal empowerment is not a substitute for other important development interventions. It is, however, a necessary condition for creating an enabling environment for providing sustainable livelihoods, inclusive economic growth and eradicating poverty.

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Legal disempowerment is a widespread and chronic problem in the WANA region. Despite this, efforts to expand access to justice in the last decade have taken a lower priority when compared to other regions. Donor funding has focused principally on state-led institutional strengthening, legislative reform and improving the skills of legal protection agents. This might be somewhat be explained by donor preoccupation with issues such as gender equality in legislation and secularisation of the courts system. A more intractable problem, however, is lack of political interest in the empowerment of marginalised populations, extending the reach of civil society, and strengthening a rights-based culture. Protracted conflict and fragility has certainly been a driver of such policies. But the issue is also cultural. The WANA region remains patriarchal and hierarchical; social and economic inequality is high and there is little incentive on the part of power brokers to modify the status quo.

Against this backdrop, it is argued that legal empowerment represents a proactive, realistic and timely opportunity to confront many of the challenges facing the WANA region. First, justice and the rule of law are broadly recognised as cornerstones of effective and inclusive development, essential for sustained economic growth, and positively linked to the eradication of poverty.[331] Moreover, it is now more clearly understood

that the poor and marginalised do not want charity or even direct assistance. Instead, they want opportunity — to receive education, access essential services reliably and at reasonable cost, to start business, purchase property, and protect themselves from shocks such as job loss, bereavement and unexpected emergencies.

Second, legal empowerment approaches embrace the 'messiness' between justice and other development goals in a way that is particularly relevant to the WANA region. It acknowledges that justice issues transcend the legal sphere; rights violations are often wound up in questions of socio-economic opportunity, good governance and environmental sustainability. Because legal empowerment works with other sectors and in an inter-disciplinary manner, practitioners are able to identify and better respond to the problem the rights holder is facing. Through such inter-sectoral partnerships, a broader range of actors can adopt legal empowerment methodologies. Initiatives on natural resources management, public health, education, livelihoods, small business enterprise, and governance might all be improved by integrating legal empowerment components.

Third, legal empowerment responds to one of the most significant, but least understood, challenges for access to justice in WANA — the problem of rights apathy or a weak rule of law culture. Access to justice is not possible unless people believe that the law can work for them. Without such confidence, a legally literate population, access to legal aid and transparent administrative processes, are missed opportunities. Promoting such values, however, is an elusive area and one that is often eschewed in orthodox programming. Legal empowerment, by contrast, sends a message to the individual and the broader community that the law is a powerful tool; it heralds the power of the individual to assert their rights and hold duty-bearers to account. It asks, and provides individuals with the tools to step up, participate, and demand more.

There is growing evidence that legal empowerment might also serve as an approach for responding to development problems across other sectors, by helping to build legal and administrative frameworks, predictable and fair enforcement, and opportunities to equitably resolve grievances. A sector that is particularly relevant in the WANA region is access to clean water and sanitation. Legal empowerment cannot produce water, but it can prevent water from being illegally siphoned off and ensure equity in distribution by giving rights-holders the skills to demand accountability. Improvements in these areas have proven multiplier effects. Improved access to water and sanitation reduces water-borne illnesses, promoting economic and school participation and reducing burdens on health and social services. Expanding income generation opportunities reduces poverty, improves school retention rates and reduces criminality, particularly for youth where there are proven links between unemployment, criminality and extremism.

Finally, legal empowerment can be seen as reactive and preventative politicking, and a bridge to more effective governance. Individuals possessing the tools to uphold their rights and demand accountability facilitates a more effective social compact by forcing government (at all levels) to be more responsive to the needs of individuals. A stronger social compact, in turn, promotes conflict resilience, efficiency and productivity.

To realise the gains stemming from legal empowerment, some fundamental obstacles must be acknowledged and addressed. The most significant is that those who can make legal empowerment a reality are also often the ones who have a strong vested interest in maintaining the status quo. Legal empowerment directly confronts, and sends dominant power structures into flux.[332] It does this by reallocating and reorganising allocations of resources, power and influence, as well as modifying social relations, especially with respect to gender and resource holdings. One solution is to sell legal empowerment as 'smart politics': a long-term approach that will benefit a country, its elites and the disadvantaged alike. This must be coupled by carefully crafted and evidence-based advocacy. The arguments behind legal empowerment are powerful and difficult to cast off from a social justice perspective. Likewise, the expense of legal empowerment's absence is great; rent-seeking, corruption and rights violations are economically and socially costly.[333]

Governments will need assistance in facing the very real challenges associated with supporting legal

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[331] UNSC 'Security Council Stresses Importance, Urgency of Restoring Rule of Law in Post-Conflict Societies' (6 October 2004) Press Release SC/8209 [3-6].

[332] M Stephens, 'The Commission on Legal Empowerment of the Poor: An Opportunity Missed' Hague Journal on the Rule of Law, 1 (2009) 147.

[333] Making the Law Work For Everyone, Report of the Commission on the Legal Empowerment of the Poor (CLEP) (Vol I) 2008, 43.

empowerment. As noted, legal empowerment usually involves winners and losers. Not all conflict can be 'programmed away'; some battles need to be fought in order to forge better deals. Such support might include dealing with the destabilisation that may follow a reallocation of resources and power away from the rich and powerful and towards the majority poor. Likewise, to the extent that bribery and corrupt practices are linked to insufficient wages, such problems need to be dealt with at their source. Entry points might include programs aimed at heightening the efficiency of agencies and saving costs which could be funnelled into job creation or salary increases; creating new jobs for those made redundant because of legal empowerment programs; and creating incentives for government personnel to support legal empowerment. It also must be recognised that even where frontline officials do not have a vested interest in resisting change, they often have little incentive to serve the needs of the poor and vulnerable equitably. Programs that promote better service delivery must anticipate such resistance, and incorporate both punitive and incentive measures.

A second challenge is that legal empowerment, because it focuses on individuals' capacity and relationship with the legal system, can be slow and labor intensive; because of the sheer numbers of the disempowered, broad programs are often required. These factors make legal empowerment, when done properly, a costly exercise. The realities of modern justice sector programming, however, are such that comprehensive initiatives can generally only be implemented on a small scale and/or within a limited timeframe. It is unlikely that funding modalities will change significantly in the near future, particularly in the context of the region's economic challenges and donor preoccupation with conflict and refugee flows.

While this issue of scope cannot be easily addressed, there are measures that can reduce its consequences. The legal development community needs to invest greater resources into researching the impact (and hence cost effectiveness) of legal empowerment programming. If it can be demonstrated that legal empowerment produces better results than technocratic approaches, it may be easier to obtain funding for longer-run programs. Greater efforts towards complementarity in programming should also be pursued. It is not uncommon that in one country, several agencies will be implementing programs with legal empowerment components. These agencies often adopt different approaches and target beneficiaries that do not significantly or consistently overlap. While each usually responds to key areas of deficiency, the fact that they do not reinforce one another, in addition to their small scale, results in limited overall empowerment impact.

If strategies could be aligned and beneficiary groups coordinated, synergies might be created, resulting in a greater contribution to legal empowerment. Of course, turning such an agenda into reality is more easily said than done. Development actors, donors, governments, local organisations and partner populations, have different views and objectives. Gaining consensus on a common approach will always be problematic. If greater cooperation is to be pursued, prerequisites need to include enhanced inter-institutional dialogue on empowerment approaches, regular debate on the effectiveness of different program modalities, and large-scale empirically- driven evaluations that are shared and used to come to agreement on best practices.

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A hallmark of the WANA story is that development is taking place, in some cases very rapidly, but at starkly uneven rates. Progress has not been inclusive, with the result that the gap between the rich and poor is growing, as well as deficits in areas that have a tangible impact on development, such as gender equality and livelihoods. Such skewed development is not without consequence. It is clear that the Arab uprisings were largely the result of poor access to basic resources and limited opportunity, coupled with weak accountability: a failure of social justice. Consequently, the role legal empowerment plays in the development strategies of WANA states is critical to building long-term resilience, good governance and sustainable growth. A transition towards this goal might be grounded in a better understanding of what legal empowerment means in the regional context. Importantly, the key principles of legal empowerment are foundational to the Islamic legal tradition: protection of the weak and marginalised; the protection of rights; accountability; equality before the law; and property rights. The embeddedness of these principles within Islamic jurisprudence supports the proposition that legal empowerment represents a timely and effective platform for addressing the specific challenges confronting WANA. How a legal empowerment agenda might contribute to such goals, and an understanding of the political, institutional and social dynamics required to enable such reforms, should be prioritised by all WANA states.

The Legal Empowerment of Women

Annalisa Bezzi

The persistence of gender discrimination and stereotyping of roles and responsibilities are fundamental obstacles to women's empowerment in many West Asian and North African (WANA) societies. Cultural norms that support subservience and patriarchy create opportunities for, and normalise, rights violations. The notion that men's honour is dependent on the sexual behaviour of his daughters and sisters, for example, perpetuates compulsory veiling and seclusion in several countries. Violence against women is broadly considered a matter to be kept within the private sphere, again because of its direct connection to a woman and her family's reputation.[334] In some locations, the growing phenomenon of Islamic radicalisation has led to a progressive seclusion of women to the private sphere.

Tensions between gender rights and obligations and the accepted cultural-religious framework place strong cultural disincentives upon women to refer protection violations outside of their immediate families. It is often considered inappropriate for women to attend court, police stations or government offices unaccompanied by a man. Particularly problematic is that these attitudes are widely held by protection agents including police, judges, tribal and religious leaders and government administration workers. Thus, if women do refer cases to court, they can face harassment, discrimination, intimidation or lack of assistance.

These issues beg the question whether women's rights protection in WANA countries is an inherently Islamic problem? The informed and evidence-based viewpoint is that this is not the case. The societies where women are discriminated against and exposed to gender-specific forms of violence are certainly not confined to the Muslim world. There are also many Muslim countries where women enjoy broad rights and freedoms, including Indonesia (the world's most populous Muslim nation), Malaysia and Bangladesh. Nor is this a problem confined only to Muslim societies in WANA; Turkey, Tunisia and Morocco are all positive examples in this regard. It is more accurate to say that violence towards and marginalisation of women is a particular problem in some Muslim countries in the WANA region. What distinguishes this problem from other contexts is that, rather than being rooted in culture and normative practice, the norms that tolerate violence and marginalisation have a basis in the legal framework, and are connected to or drawn from Islamic principles.

Saudi Arabia is perhaps the most extreme example, and as such is often referenced in academic and policy discussion. The Kingdom is known for its rigid norms concerning gender segregation in public facilities, legally mandated veiling, and women's dependence on a male guardian (*wali*) to undertake even routine tasks such as leaving the house.[335] The United Arab Emirates' Personal Status Code (2005) requires women to be represented in a marriage contract by a guardian (*wali*). If the contract is not concluded by the *wali*, the marriage is invalid and the spouses are required to separate.[336] The equivalent Qatari law (2006) details the duties and rights of spouses in separate sections: one relating to the rights of the husband, one relating to the rights of the wife, and one outlining mutual rights. Among the rights owed to a husband is his wife's obedience. Disobedience automatically causes a wife to waive her right to maintenance. Among other things, disobedience can include a wife being employed without her husband's approval (provided that such approval is not arbitrary).[337]

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[334] Abdullahi A An-Na'im, *Islamic Family Law in a Changing World: A Global Resource Book* (London: Zed Books Ltd 2002) 96; see also, for example, National Coalition led by the Arab Women Organization "Women's Rights in Jordan" (2013), report submitted to The Universal Periodic Review the Human Rights Council.

[335] It should be highlighted that Saudi Arabia is the only state in the region not to have codified its family law; all private and civil matters fall within a judge's discretion. An Na'im (n 1) 96-7.

[336] UAE Federal Law no. 28 of 2005 on Personal Status of 19 November 2005, Official Gazette no. 439, art 39.

[337] Qatari Law of the Family, Law no. 22 of 2006, Official Gazette no.8 of 28 August 2006; see further L Welchman, "Bahrain, Qatar, UAE: First time Family Law Codifications in Three Gulf States" 5 (2010) *International Survey of Family Law* pp 163-178.

It is important to draw a clear distinction between norms drawn from Islam and articulated in the legal framework, such as those referenced above, and those rooted in custom and/or have no legal basis, but that are nonetheless attributed to Islam. For example, female genital mutilation is widely regarded to be a 'Muslim' problem. Although widespread in Yemen, Bahrain, Oman and the United Arab Emirates,[338] the practice is predominately an African issue that is not supported, condoned or required under any legal framework (at least in the WANA countries under review), nor in Islam. Likewise in Saudi Arabia, while the (in)famous ban on women driving is a consequence of their restricted freedom of movement (which does have a religious basis), the ban is not enshrined in law.[339]

The question of women's legal disenfranchisement on the basis of Islam thus should exclusively concern an examination of practices (i) that tolerate discrimination or violence against women (ii) have a legal basis and (iii) are justified on the grounds of Islam. To understand these dynamics, the interconnections between genders, Islamic doctrine and the legal frameworks in WANA countries need to be more closely examined.

Gender Equality and Protection as Fundamental Tenets of Islam

Most scholars would disagree with the contention that gender discrimination is sanctioned by or inherent in the Islamic faith. Quite the contrary, equality and non- discrimination are fundamental tenets of Islam, and these extend to gender. The *Qur'an* makes reference to opportunity and access in all aspects of women's lives, as well as equality before the law and equal rights and responsibilities. These are powerful tools that can protect women from discrimination and exploitation, and safeguard their status in society.[340]

> O mankind, fear your Lord, who created you from one soul and dispersed from both of them many men and women. And fear Allah, through whom you may ask one another, and the wombs. Indeed Allah is ever, over you, an Observer.[341]

> We have created you out of the same substance.[342]

The above passages have been interpreted to support the equality of women and men and non-discrimination on the basis of gender, nationality and race. Scholars also reference the principle, repeated throughout the *Sunna* and *Qur'an*, that men and women are equal before God. *Tawhid* (belief in the oneness of God) imposes the same obligations of worship on men and women, as well as the same duties and prohibitions.[343] This is often presented as the strongest representation of the gender equality in Islam.

> ... Hey people, in all truth we created you from a man and a woman and made you into cultures and tribes so that you would get to know each other. In all truth, the most honoured ones among you at Allah's side are the most devout ones among you, and in all truth Allah understand all and knows all...[344]

> ... men and women who surrender themselves to Allah, devout men and women, honest men and women, patient men and women, men and women who fear Allah, men and women who give alms, who fast, who cover their body (*awrat*), who chant (*dhikr*) in praise of Allah, for them Allah has forgiveness and great rewards for their moral conduct...[345]

> And of His signs is this, that He created mates for you from yourselves that you might find quiet of mind in them, and He put between you love and compassion.[346]

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[338] An-Na'im (n 1) 98.

[339] The rule is binding, however, since women who are found to be driving can be arrested or their employment terminated.

[340] Kh Husein Muhammad, Faqihuddin Abdul Kodir, Lies Marcoes Natsir, Marzuki Wahid, *Dawrah Fiqh Concerning Women: Manual for a Course on Islam and Gender* 210 (Fahmina Institute 2006) 56.

[341] Q4:1

[342] Q22:5.

[343] Muhammad (n 7) 57-8.

[344] Q49:13.

[345] Q3:195, see also Q16:97, Q40:40.

[346] Q30:21.

> ... The believers, men and women, are each other's protectors; they enjoy what is just, and prohibit what is evil: they observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His blessing: for Allah is exalted and wise...[347]

Scholars' Explanations for Gender Discrimination under Islam

There are several Quranic verses, however, that have been interpreted and translated as strongly undermining gender equality.

> Men are the protectors and maintainers (*qawwamun*) of women, because Allah has given the one more than the other, and because they support them from their means. And the righteous women are truly devout ones, who guard the intimacy which God has (ordained to be guarded) And as for those women whose ill-will you have reason to fear, admonish them (first); then leave them alone in bed; then strike them (*idribuhunna*); and thereupon they pay you heed, do not seek to harm them. Behold, God is indeed most high, great.[348]

The focus of these verses is on the words *qawwamun* and *idribuhunna*. *Qawwamun* is the plural of *qawwam*, and comes from the word *qiwama*, which is usually translated as 'authority'.[349] This interpretation is not, however, universally accepted:

> *Qawwam* does not have any such shade of meaning even remotely and yet, in a feudal and patriarchal culture such a rendition became acceptable. The word simply refers to one who maintains or takes care of the financial and other needs of women; since women in general were not active economic agents in those days the *Qur'an* made it obligatory on men to maintain them and take care of them as they earned and Allah bestowed His bounties on them.[350]

Similarly, some scholars argue that the words: "Allah has given the one more than the other", is also inaccurately interpreted. They maintain that the phrase equates to: "Allah has given some over the others", where "some" and "others" are not gendered, leaving the possibility of women being active economic agents open.[351]

The word *idribuhunna*, which is commonly interpreted as beating, is the most controversial term in the verse. Recent scholarship, however, has rejected this translation, arguing that the verb has multiple meanings in the *Qur'an*, including to travel, to give an example, to strike, to regret, to ignore, and to take away. They suggest that *idribuhunna* in this context means to 'separate' wives and their husbands, and cannot be interpreted to permit the beating of women.[352]

Another controversial verse is Q 2:228:

> ... Women have rights that balance their duties, as long as this is in a good way (*ma'ruf*). But men are still one level above women...

Scholars who interpret *qawwamun* as 'protectors and maintainers' claim that men's degree over women reflects only an economic perspective, since at this time men were the exclusive providers for their families. It is hence a contextual verse that should be re-adapted to modern times.[353]

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[347] Q9:71.
[348] Q4:32
[349] Asghar Ali Engineer, Rights of Women and Muslim Societies 13 (210) *Socio-Legal Review*.
[350] ibid.
[351] ibid.
[352] ibid 15.
[353] Kadivar, "Revisiting Women's Rights in Islam: Egalitarian Justice in Lieu of 'Deserts-based Justice'" 227 in Mir Hosseini, Vogt, Larsen, Moe (eds) *Gender and Equality in Muslim Family Law: Justice and Ethics in the Islamic Legal Tradition* (London: I.B. Tauris & Co Ltd 2013).

Further Explanations for Gender Discriminatory Provisions Rooted in Islam

Even if gender discrimination in the above verses can be rationalised or explained, this does not take away from the fact that legislators and governors have used this to justify and enact gender-biased laws. In WANA jurisdictions, these include unequal inheritance provisions, men's broader rights to claim divorce, and the need for women to be represented in marriage by a guardian.[354] Again, scholars call for contextualisation and a thorough understanding of historical context.

It is not contested that the status of marginalised groups in the pre-Islamic period was extremely poor. Tribal structures with strong patriarchal and honour-based traditions exposed slaves, the poor, children and women to violence, tyranny and discrimination. Women faced specific constraints; they were regarded as inheritable property, without independent rights or freedom of movement, and their lives were largely restricted to the domestic realm. It was arguably women, therefore, who benefited most tangibly from the advent of Islam. The *Qur'an* liberated women and vested them with rights, such as inheritance and physical independence, as well as protections;[355] unlimited marriage was restricted through the introduction of polygamy and discriminatory practices such as customary female infanticide were abolished.[356] Moreover, the righteous place of women in early Islamic society is affirmed in many Islamic sources. According to one *hadith* the Prophet Muhammad said: "The paradise lies at the feet of your mother". A man asked the Prophet "upon who lays my polite behaviour". The Prophet answered "Your mother". The man asked the same question a second time, the Prophet again answered "Your mother". The man asked the same question a third time and the Prophet answered again a third time "Your mother". It was only the fourth time that the Prophet answered "Your father".[357]

A further explanation provided by scholars is therefore that recognition of gender equality and women's protection was intended to be a continuous journey, but at the time when the Islamic texts were recorded, this journey was only in its infancy. According to Engineer:

> The *Qur'an* adopted a reformist approach in certain matters where sudden change could not have been acceptable and a radical approach in certain respects, where change was much more urgent. Any reform has to be made keeping in note these core changes brought about by the *Qur'an*. [...]The *Qur'an* came out with a radical declaration that men and women are equal and women's rights are equal to their duties. Maulana Abul Kalam Azad, a noted modern commentator on the *Qur'an*, describes this verse as a revolutionary declaration of gender equality, enunciated more than thirteen thousand years ago. Thus, there is no doubt that the basic principle in the *Qur'an* is of gender equality. Nonetheless, as pointed out above, in the context of the then Arab society, there are some injunctions in the *Qur'an* which are not in line with the principle of absolute equality and thus may be found to be unacceptable in today's context. Nonetheless, as pointed out already, the *Qur'an* had to adopt a gradual reformist approach in certain respects, maintaining nevertheless, the sanctity of the basic principle – that of gender equality. The *Shari'a* laws must be updated in light of this basic Quranic injunction. Till today, because of resistance on the part of the ulama and jurists, this basic principle continues to be in limbo.[358]

A variation on this thesis is that the classical jurists interpreting and writing the scriptures were limited in their perspective and guided by the normative values and state of knowledge of the time — values that were highly conservative.[359] A compounding factor was women's exclusion from the interpretative process of deducing the *Shari'a* from the sacred sources, which left little scope for debate or criticism from within.[360]

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[354] Muhammad (n 7) 87.
[355] Ibid 43-44, 85-86, 147.
[356] Ibid 46-47.
[357] H Ibrahim, *Practicing Shariah Law: Seven Strategies for Achieving Justice in Shariah Courts* (Chicago: American Bar Association 2012) 193-4. There is consensus among Islamic scholars that this underscores the righteous position of women in Islam.
[358] AA Engineer, Rights of Women and Muslim Societies 13 (210) Socio-Legal Review 8.
[359] Muhammad (n 7) 39, 88-9.
[360] ibid 192.

The issue today, is that these rules and precepts are treated by modern jurists as immutable, rather than literal expressions recorded by classical jurists' on family relations at this time. This has allowed Islamic texts to be misinterpreted and mis- practiced, leading to women's rights abrogation. Mir-Hosseini explains this in greater detail. She argues that the gender inequality in Islamic law is rooted in internal contradictions between *Shari'a* ideals and social norms in Muslim cultures. While Islam calls for equality, justice and freedom as basic precepts, social and cultural norms during the formative years of Islamic law prevented such ideals from being fully realised. These norms were then assimilated into classical *fiqh*. Modern jurists treat these interpretations as ibadat (immutable) and fixed vis-à-vis society. Transforming what was intended to be a time-bound and temporary phenomenon into judicial principle of permanent validity; the science of *fiqh* became a prisoner of its own legal theories and assumptions, and over time superseded the *Qur'an*'s message of justice and equality.[361]

The Influence of Islam on Modern Laws Regulating Personal Status

At this juncture, it is important to explain another important driver in the evolution of laws regulating women's rights, namely why in many Muslim countries the domain of family relations continues to be governed by *Shari'a*, while other spheres have been codified and regulated under a secularised legal system. Again this evolution must be placed in historical context.

Family law in WANA countries has often been described as the 'last bastion' of Islamic law, given its strong bond with *Shari'a*, even after its replacement with European-based law in civil and criminal matters. Western colonial powers preferred to not amend family law and focused on what was perceived to be public matters, namely civil and criminal legislation, leaving family law unchanged.[362] There is no doubt that political considerations were in play; the decision to leave family matters in the hands of indigenous powers was largely to avoid confrontation in an area deemed to be politically insignificant.[363] Hence, family relations were the only remaining domain governed by *Shari'a* principles and under the control of religious leaders; they quickly came to symbolise tensions between traditionalism and modernisation-secularisation. This explains why family law continued to be based on *Shari'a* even after its gradual codification, which took place for the first time in 1917 with the Ottoman Law of Family Rights, continued in Egypt in the 1920s, and most recently in Bahrain in 2009.[364] The extent to which governments succeeded in legal reform often depended on balancing the aspirations of and power held between conservatives and moderates. Leaving family issues in the hands of *Shari'a* courts was often a tool to appease conservatives; in short, women's rights were sacrificed for political expediency.[365]

Paths Forward

This chapter has set out various explanations for resolving the contradictions between the principles of justice, equality and the status of women in Islam, with their discriminatory treatment. Some scholars argue that certain Quranic verses have been inaccurately interpreted; others maintain that discriminatory provisions reflect historical conditions and not the true message of Islam, but have become 'frozen' in a manner that was unintended. It was this fusing of social norms with Quranic ideals at a particular historical juncture, maintained through colonisation and independence, that has given rise to the current crisis in women's rights.

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[361] ibid 192-199.
[362] Welchman, *Women and Muslim Family Law in Arab States* 11 (Amsterdam University Press 2007).
[363] An-Na'im (n 1) 17.
[364] Annelies Moors, Debating Islamic Family Law: Legal Texts and Social Practices' in Meriwether and Tucker (eds) *A Social History of Women and Gender in Modern Middle East* (Westview Press 1999).
[365] An-Na'im (n 1) 18.

The corollary question is what steps might be taken to ameliorate the situation? The reality is that women of WANA face complex and multifaceted challenges upholding their rights and protecting themselves from violence. In many jurisdictions, legislation does not afford equal opportunity and protection to women; certain laws are discriminatory and others, while not explicitly gendered, have a disproportionate and negative impact on women. Women are vulnerable to specific rights violations and face widespread social discrimination. A key issue is that many women exist outside the protection of the law. They lack awareness of their rights and how to mobilise them, do not have the resources to access the courts, and cultural norms dissuade them from taking their problems outside of the private sphere.

Some scholars argue that the holy texts must be interpreted in their historic, linguistic and socio-cultural context, and in reference to overarching Quranic principles.[366] More liberal scholars argue that the gender discrimination in classical *fiqh* calls for contemporary reinterpretation: *ijtihad*.[367] *Ijtihad* is independent and informed opinion on legal or theological issues: a continuous effort by jurists towards a better understanding of the practical rules of *Shari'a*. Modern Islamic scholarship is divided on whether the 'gate of *ijtihad*' was closed around the tenth century A.D,[368] or, as maintained by Wael Hallaq, was never closed.[369] Hallaq argues that legal interpretation and amendment has taken place throughout Islamic history, aimed at discovering God's law in the context of different socio-historical circumstances. This theory is supported by the practices of early jurists who were sensitised to the importance of dealing with unprecedented cases in order to develop an encompassing and inclusive code of laws.[370]

Jurist Ibn 'Abd al-Barr (d. 1058) stated that "Islamic law must and can deal with new issues. It is through *qiyas* and *ijtihad* ... that *Shari'a* can cope with the needs of Muslim society".[371] *Ijtihad* was also regarded as a sine qua non in the development of the political sphere. Jurists Baghdadi (d. 1037) and Mawardi (d 1058) considered the ability to practice *ijtihad* as one of the "four conditions that the Imam (or Caliph) must satisfy in order to rule efficiently".[372] In other words, it was the Caliph's duty to know the law and the legal means by which to resolve new problems. The progressive decline of the Caliphate and the legal impotency of the Caliph meant that jurists and legal scholars gained increasing responsibility with regards to legal theory. In fear that their work would be forgotten they composed a mass of writings. Within such writings, they emphasised and insisted on the indispensability of *ijtihad* both in political and legal matters.[373] As Hallaq observes:

> Legal activity, whether in theory or practice, continued unceasingly. The vast bulk of *fatwas* (legal opinions) that appeared and continued to grow rapidly from the fourth/tenth century onwards is a telling example of the importance of *fatwas* as legal decisions and precedents.[374]

There is thus a strong argument that *ijtihad* should play an essential role in modern Muslim states. Moreover, if the purpose of *ijtihad* is to discover God's law in all historical circumstances, today's rapidly changing economic, social and scientific conditions make it imperative that jurists engage in the practice. It might even be argued that the only way for a state to remain within the scope of Islamic *Shari'ah* is with law reform through *ijtihad*.

It is also necessary to examine how and under what conditions some countries in the region have reformed their laws to remove gender discriminatory provisions. Turkey, Tunisia, Egypt and Morocco are all examples of jurisdictions where gender-unequal laws have been transformed, either through full secularisation (as in Turkey) or fundamental reform (as in Morocco, Tunisia and Egypt). In each of these cases, complex socio-historic and political evolutions were in play, as discussed below.

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[366] Muhammad (n 7) 126-7, 181.
[367] ibid 155.
[368] J Schacht, *An Introduction to Islamic Law 7* (Oxford University Press 1982) 70-71; James Norman Dalrymple Anderson, *Law Reform in the Muslim World 7* (London: Athlone Press 1976).
[369] Wael Hallaq, "Was the Gate of Ijthad Closed?" (1984) 16/1 International Journal of Middle East Studies pp 3-41.
[370] ibid 12.
[371] ibid.
[372] ibid 13.
[373] ibid 15.
[374] ibid18.

Top-down Solutions: Islam as an Unlikely Ally

For decades, legal services and policy organisations have struggled to find effective means of strengthening gender equality and women's protection. There is widespread agreement that an effective legal protection framework is a prerequisite. Deficiencies remain, however, including mitigating and exculpatory provisions that allow men to escape punishment in cases of rape and honour crime, weak domestic violence provisions and unequal vesting of parental rights between spouses. While women's groups have lobbied strongly for reform, closing these gaps remains an on-going challenge.

One explanation lies in the strategies that have been adopted in some countries. In Jordan, for example, the advocacy discourse that preceded the 2010 amendments largely focused on Jordan's obligations under international law and the importance of presenting itself as a modern state grounded on rule of law values, equality and human rights. The reality however, as distasteful as it might be, is that is that a large group of powerful stakeholders do not subscribe to the philosophies underpinning these arguments. As in much of the region, gender discrimination, cultural norms that support subservience and patriarchy, and the importance attached to family honour are entrenched parts of the social fabric. The law has remained a weak source of protection because there is simply not the will among dominant power holders to modify the status quo. Unless the incentive structure is modified, this situation is unlikely to change.

A new strategy is required, one that will mobilise both political and broader community support. Inspiration should be drawn from countries with similar socio- cultural and legal frameworks that have made major strides in women's legal protection. It is also important to investigate a better use of the assets within a state. For example, a strategic opportunity exists to lobby for reform on the grounds that the law, or the implementation of the law, directly conflicts with Islamic principles.

A first argument is that changes in social and economic conditions mean that the outcome of applying certain laws is inconsistent with the true Islamic message; in other words, reform is needed so that the application of the law can achieve its intended purpose under Islam. For example, the vesting of legal guardianship in fathers and caregiving responsibilities in mothers, as defined in classical *fiqh*, was initially aimed at protecting children and mothers in a context where women did not work, would have been unable to maintain their children alone, and did not participate in marital decision-making. Today's socio-historical framework is very different. Government and civil society support the poor, workplaces comprise both men and women, and women are largely physically independent. There is hence a legitimate argument that men's exclusive legal guardianship is no longer appropriate and may also abrogate the Islamic principle of the child's best interests.

A second potential area for reform is inheritance. Equality in inheritance is at the top of the agenda at many women's rights organisations. However, for those who are serious are near-term and comprehensive change, this may not be the most strategic lobbying objective. Inheritance division is clearly defined in Islam, and the discourse is complex and highly divided about whether or not provisions are discriminatory. Organisations might instead focus on the argument that modern socio-economic conditions mean that the intention of Islamic inheritance division is not being realised through the applicable law. Inheritance divisions were originally grounded on the assumption that women's maintenance was the responsibility of male relatives. Men, however, are not the sole providers in many WANA families today, particularly in urban areas. Moreover, it is a widely established norm that married working women use their salaries to pay for family expenses, while single women likewise contribute their salaries to the family income. High divorce rates also mean that there is a large and growing number of women raising children alone. The practice of inheritance division has thus fallen out of alignment with its objective under Islam, a situation that can only be rectified through changes to the law.

A third basis for reform is that in modern-day WANA, the application of certain rules abrogates other, equally valid, Islamic principles, the broader aims of *Shari'a*, or the public good (according to *Shari'a*, a ruler must act according to the public welfare, following the principle of maslaha). Laws failing to protect women from marital rape, for example, undermine Islam's protection of vulnerable groups, its general proscription against violence, and its requirement that women be treated with dignity and respect. A similar argument

could be levelled in support of a strengthening of laws relating to domestic violence and an elimination of mitigating and exculpatory provisions that apply to violent crimes. Specifically, it could be argued that marriage between a rapist and victim is contrary to the principles of Islamic marriage, and that neither vulnerable groups nor society benefits from such marriages. Paternity laws could likewise be contested based on the Islamic principle of the best interests of the child and the protection of vulnerable groups. Children born out of wedlock are From Politics to Policy: Building Regional Resilience in West Asia and North Africa discriminated against, are more vulnerable to poverty, and have reduced access to education and livelihoods opportunities. Moreover the incentives on mothers to abandon children born out of wedlock or whose paternity is not recognised is clearly not in the interests of mothers, children or broader society.

There is precedent for such reform in the form of *ijtihad*. As discussed above, *ijtihad* is independent and informed opinion on legal or theological issues or, in layman's terms, reform through judicial interpretation. *Ijtihad* has strong regional precedents. This was the means by which Morocco comprehensively reformed its family law, the *Mudawwana* in 2004, under the King's religious authority. The new code embodies important departures from traditional Maliki *fiqh*, including equal responsibilities between men and women in family affairs; the abolition of female guardianship; equal access to women to the court to file for divorce; and the vesting of women with unconditional rights with respect to alimony and custody. This was not a simple matter of taking the decision. A complex series of conditions and events, including a steady evolution in women's activism, the 2003 Casablanca terrorist attacks, and King Mohammed VI's ascent to the throne, created the necessary enabling environment. Could a similar process of *ijtihad* take place in other countries?

A first question is upon what basis could a process of *ijtihad* be launched? In Morocco, women's groups based their arguments around the Family Law being unconstitutional (the Constitution guarantees full equality for all citizens), it being contrary to Islamic doctrine (Islam upholds equality between women and men) and the law being misaligned with the family structures and values of Moroccan society. Similar tensions arguably exist in other WANA countries. It could also be argued that the threat posed by Islamic extremism makes this an ideal time to solidify individual countries' Islamic identity based on its core values of justice, protection, *i'tidal* and *wasatiyya* (temperance and moderation, far from extremes). These questions can most properly be answered by a country's political and religious leadership. But if the purpose of *ijtihad* is to discover God's law in all historical circumstances, today's rapidly changing economic, social and scientific conditions make it imperative that jurists consider engaging in the practice.

Bottom-up Solutions: Combatting Culture

While *ijtihad* might be a strong and viable basis for law reform, it would not be a panacea. Judicial discretion, weak legal literacy and custom, each play a key role in women's legal disempowerment.[375] Moreover, it is critical to understand that law reform makes little difference in the lives of the disenfranchised who, for a complex set of reasons, are unable to access the justice system. Moreover, when one examines the real issues that are making women vulnerable to rights violations, the problem is not the law; nor is it religion. It is custom. Law, religion and culture also fuse in complex and dynamic ways, such as where discriminatory customs are presented as being condoned by or required under Islam. Domestic violence, for example, although usually punishable by law, is widespread in WANA and often perceived as being justified from a religious standpoint. Likewise, despite strict legal prerequisites on underage marriage, the phenomenon is both socially accepted and pervasive. This is indisputably connected to an understanding among *Shari'a* court judges, Imams and religious scholars that early marriage is an accepted Islamic practice. In other situations Islam is not a factor; instead it is the interplay of law and culture that results in women's rights being compromised. In Jordan, the mitigating and exculpatory provisions in the Penal Code are examples of where patriarchal cultural norms, specifically the cultural value attached to female virginity and family

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[375] Following the reform of the Family Law in Morocco in 2004, rates of polygamy increased in some areas despite the practice being significantly restricted by law. Other judges ignored the more detailed procedure required by the 2004 reforms, authorizing minors to marry on the basis of a "visual assessment". Lawrence Rosen, Revision and Reality in the Family Law of Morocco 139 in Petersen Hanne, Rubya Mehdi, Erik Reenberg Sand (eds) *Law and Religion in Multicultural Societies* (DJØF Publishing 2008); Welchman (n 29) 49.

honour, have evolved into law.

Against this backdrop, a reform agenda exclusively focussed on legislative reform is not the most effective or efficient means of protecting and empowering women. New modalities need to be examined and within such a process addressing discriminatory customs and traditions must be prioritised. Again, perhaps the most relevant tool is the one that is most often presented as part of the problem: Islam. Three areas of entry points are offered for consideration by policy-makers and practitioners.

i) The Role of Judges and Other Religious Actors

Throughout the Muslim world, judicial discretion has traditionally played a major role in decision-making. The influence of a judge's understanding of *Shari›a* has major implications for women's rights protection. Judges should be encouraged to use their discretion to play a more active role in women's protection, for example, by disallowing marriages between perpetrators of rape and their victims on the basis that this contradicts the purpose of marriage in Islam. The role of other Islamic actors might also be capitalised upon. There is no better example that the *fatwa* issued by Egypt's Grand Mufti, Nasr Farid Wasel, in 1999. This *fatwa* declared 'reparatory marriage' between a rapist and his victim invalid. Further, the fatwa described rape as "psychological murder for a woman", and a consequent forced marriage, as against the foundational principles of marriage required by *Shari'a* — love and compassion. This action and the debate that followed played a pivotal role in the repeal of the law.

ii) The Role of Lawyers and Women's Legal Services

Given the extent of judicial discretion, lawyers also have an essential role in encouraging a judge to embrace a specific interpretation of Islamic jurisprudence. As discussed, Islam is rich with provisions that protect women. Lawyers need to arm themselves with a thorough understanding of such Quranic passages, *hadith, fiqh* and *sunna*. They must also possess the technical skills to be able to base arguments on the law, on Islamic sources or on both, depending on the judge. Women's access to legal aid or free legal services is also an important factor. The dynamic nature of *Shari'ah* court decision-making means that women who go to court unrepresented are at a significant disadvantage. The importance of legal aid is especially compelling against data that suggests that women are disproportionately represented among *Shari'ah* law case-holders. In Jordan, for example, women report 19.2 percent of the criminal law issues, 17.1 percent of the civil law issues, but 56.7 percent of the *Shari'ah* law issues. Women also report 55.6 percent of *Shari'ah* cases not referred to court and 64.4 percent of *Shari'ah* cases referred to court in the absence of an attorney.

iii) Legal Literacy and the Role of Civil Society

The law is an impotent tool unless women are aware of their rights and have the tools to realise them. As both the Tunisia and Morocco experiences demonstrate, changes in law will not modify the status quo unless women are sensitised to them and have the tools to realise them. A common example is where women's rights in marriage have been strengthened under law but remain unrealised because they fail to register their religious, *fatiha*, marriage.[376] Largely at the behest of donors, legal literacy programs often focus on women's rights under statute and international law. A major shortcoming of such programs is that, for the majority of women, law and international conventions are tools far beyond their socio-economic, educational and situational reach. Such campaigns would be strengthened if they adopted a duel-track approach that presented women's rights as protected under both law and Islam, the pivotal role of custom, and how many of the practices deleterious to women have no legal or religious justification.

Good practice examples can be found in the work of civil society organisations such as Women Companions of the Prophet in Morocco. Their programs aim to provide an alternate, more liberal, narrative to the

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[376] In such situations, women are unable to enforce their rights relating to pregnancy, divorce or inheritance because without a marriage registration courts will not hear such cases; *Fatiha* marriages meet all the formal requirements of Maliki law, however they do not enjoy legal recognition, since they do not fulfil the modern criteria of a valid marriage according to the code. Ziba Mir-Hosseini, *Marriage on Trial: A Study of Islamic Family Law, Iran and Morocco Compared* 145 (I.B. Tauris 1993).

scriptural and de-contextualised interpretations of the *Qur'an* and Sunna used by judges and Imams. They emphasise differentiating between the cultural practices that evolved in the early Islamic period and have been continued, and those that are required under Islam. They demonstrate that awareness-raising can be a highly effective tool, particularly in cases where cultural practices contravene Islam. A clear entry point is women's rights to inheritance. The *Qur'an* and *hadith* unambiguously set out such rights and emphasise that they are obligatory. The focus message should be that pressuring or coercing women into waiving such rights directly violates Islam. A final role for civil society is that of policy advocate. The experiences of Morocco and Tunisia demonstrate that while legal reforms were the result of a combination of events and pressures, women's organisations and women within political organisations, play a pivotal role. Where they were most successful, their advocacy did not sideline Islam, but made the realisation of Islamic values a key element in their demands for reform.

Extra-Legal Approaches

Women's legal empowerment will be not be achieved unless the socio-cultural causes of violence against women and their marginalisation are eliminated. As discussed, deficiencies in the legal protection framework are reinforced by traditional attitudes towards the roles and responsibilities of women and men in society. Violence is broadly considered a private matter, cultural norms support patriarchy, and there are strong cultural disincentives placed upon women seeking to secure their rights. Programs aimed at reversing gender stereotyping must be pursued, including through education curricula reform, broad community messaging and promoting women's economic empowerment. Simultaneously, efforts must be made to eradicate specific discriminatory and violent cultural practices. Early marriage, marriage between a rapist and victim and denial of a women's inheritance cannot be solved by either awareness raising or law reform alone. Social and family pressure to enter such marriages and social norms that require women to waive their salaries and inheritance rights need to be curtailed. Islam can be a source of protection in this regard, and jurists, scholars and civil society should all be encouraged to play a more active role in communicating the importance of respecting these principles.

The Customary Justice System

While some traditional practices need to be eliminated, others need to be strengthened. The Bedouin have a long and culturally embedded tradition of extra- legal arbitration and alternative dispute resolution, which generally goes by the name of *sulh*. Little is known about such systems, particularly how marginalised groups such as women fare in negotiations. However, given the disincentives that women face bringing rights violations into the public sphere and the stigmatisation they can face at the police and court levels, working to ensure better protection at the informal level should be closely evaluated. In the immediate term, more research needs to be conducted to understand how cases are resolved under this system, the characteristics of issue-holders and the steps that might be taken to ensure that basic rights are upheld and that issue-holders are able to access fair and just outcomes. Again, religion can play a positive role and may even provide a basis for such interventions. In Islamic jurisprudence arbitration and mediation are generally preferred over litigation in court, due to their non-adversarial nature.[377] Moreover, customary mediation can provide more scope for outcomes that are protective of women in cases where the legal protection framework is weak and because its emphasis is not on women's rights per se, but on a set of common values that both the parties share.

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[377] In Muslim societies conflict is viewed as disruptive and dangerous to social cohesion, and should therefore be avoided; B Malkawi, "Using Alternative Dispute Resolution Methods to Resolve Intellectual Property Disputes in Jordan" 141 (2012) 13/1 *California Western International Law Journal* pp 141-155.

Two Success Stories: The Evolution of Women's Legal Rights in Tunisia & Morocco

Tunisia: Women, Islam and Politics

Tunisia has enjoyed a long-standing reputation as a leader in the Arab world with respect to women's rights. An examination of how this legal protection framework evolved reveals three important milestones, each of which had different political and social drivers.[378]

Tunisia's promulgation of the Code of Personal Status in 1956 marked a radical shift from the Islamic laws that regulated family affairs in Tunisia during the Ottoman Empire and through the colonial period (1881-1956). The Code abolished polygamy,[379] divorce was placed in the jurisdiction of the courts (men's right to unilateral repudiation of marriage was abolished and women were granted the right to file for divorce)[380] and women's post-divorce rights were strengthened (the right to alimony was established and custodial rights were reinforced).[381] These changes were facilitated by progressive interpretations of Islamic jurisprudence. In fact, when the Code of Personal Status was promulgated in 1956, the Ministry of Justice accompanied it with a communiqué that reiterated the Islamic character of the new laws and that religious judges and scholars had participated in its preparation.[382] Importantly, these reforms were not driven by public demand for enhanced gender parity or women's rights protection, but instead formed part of a broader state building project. As Charrad explains, the post-colonial administration understood that the development of a strong and stable state required that the patriarchal and tribal community networks, within which power was previously concentrated, needed to be made redundant. Allegiance to the tribe needed to be replaced with allegiance to the nation state. The Code of Personal Status was thus a tool introduced alongside complementary reforms, including the abolition of collective property (which was key to the strength of tribalism), a new administrative architecture, and a "discourse that was unabashedly anti-tribal".[383]

The next important reforms occurred three decades later under the government of President Zine El Abidine ben Ali who came to power in 1987. In 1993, the Tunisian Code de Nationalité was reformed to allow mothers to transmit nationality to their children, regardless of the father's nationality. This significantly strengthened the protections enjoyed by women and their children, and constituted an important step towards gender equality within the family unit and the national civil framework.[384] In 2007, the minimum age for marriage was raised from 15 to 18 for both men and women, and women's rights in the areas of marriage, alimony and custody were again expanded. This set of reforms was motivated by President Ben Ali's political agenda to advance Tunisia as a modern, progressive state on the international stage. The role of women's rights advocates, however, should not be dismissed. From the 1980s, women's groups began to form and coordinate in modest but important ways and their discourse informed the political manoeuvring taking place at that time.[385]

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[378] M Charrad and A Zarrugh, *The Arab Spring and Women's Rights in Tunisia* (2013).

[379] The law made a second marriage null and void, as well as to make any attempt to take a second wife, while already married, punishable with a fine and imprisonment.

[380] Article 30 (République Tunisienne 1997); M Charrad, "Family Law Reforms in the Arab World: Tunisia and Morocco" (2012) report for the United Nations <http://www.un.org/esa/socdev/family/docs/egm12/PAPER-CHARRAD.pdf>. A new law, introduced in 1981, addressed post-divorce issues. This law enhanced a mother's custody rights by making her automatically the guardian of a child in case of the father's death.

[381] Not all gender unequal aspects were eliminated: inheritance remained unequal, fathers exercised greater rights over their children than mothers and women's were required to obey their husbands. Subsequent amendments increased women's guardianship rights and dropped the clause regarding the duty to obey; M Charrad 'Contexts, Concepts and Contentions: Gender Legislation in the Middle East' (2007) 5/1 *Hawwa: Journal of Women in the Middle East and the Islamic World* 55-72; M Charrad, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco* 201-232 (University of California Press: Berkeley); Sohie Bessis "Le Féminisme Institutionnel en Tunisie" (1999) 9 *Clio*.

[382] Charrad (2001) (n 48).

[383] Charrad and Zarrugh (n 45).

[384] Charrad (n 47) 6. The original code allowed nationality to be passed through blood descent (*jus sanguinis*) and soil (*jus soli*, meaning that people born in Tunisia were Tunisian). Before 1993, the primary determinant for nationality was patrilineality: a child of a Tunisian father automatically received Tunisian nationality regardless of where they were born (République Tunisienne 1998 art 6); a child whose father and grandfather were born in Tunisia was also Tunisian (République Tunisienne 1998 art 7). Under the revised law a child was Tunisian also "[if he or she meets all conditions imposed by the Code and makes the request] within one year before reaching the age of majority, a child born abroad from a Tunisian mother and a foreign father" (République Tunisienne 1998 art 12).

[385] Their actions were, however, severely restricted, as were other associations in the 1990s and 2000s.

Then, in December 2010, Tunisian street vendor, Muhammad Bouazizi, set himself on fire to protest the humiliating confiscation of his wares. Bouazizi's symbolic sacrifice ignited a protest movement that culminated in President Zine El Abidine ben Ali abdicating his 23-year rule on 14 January 2011.[386] The political changes that took place in the following months had profound implications for women. Elections for a National Constituent Assembly (NCA) were held in October 2011. The transitional government introduced into law a female quota geared towards enhanced gender parity in political representation.[387] The Muslim Brotherhood affiliated party, Ennahda, won a plurality of seats. While this caused tensions within secular elements, an important development was the success of female candidates and, particularly, female representatives within Islamic political parties. Ennahda boasted 42 of the 49 female candidates elected to the 217-member NCA.[388]

The composition of the NCA and Ennahda's 41 percent of seats, created anxiety on the part of women's rights and secular groups that religion might begin to take a more extensive role in Tunisian jurisprudence,[389] and that territory gained since independence might be lost. Such concerns were not necessarily misplaced. In the aftermath of the election, Ennahda party representatives proposed a constitutional provision declaring Islam to be "the main source of legislation" with the goal of unifying all legislation under Islamic law, and it was asserted that Tunisian legislation and international treaties approved by the Parliament should conform to Islamic law standards.[390] Some members rejected a proposal to abolish the death penalty on the grounds that this would violate Islamic law; and bills were proposed to criminalise eating in public during Ramadan and abolish Law 27 of 1958 on child adoption, again on the basis of incompatibility with Islamic law. With regards to women's rights, proposed legislative provisions included the right of Tunisian women to veil (a practice banned by Law 108 of 1981 and Law 102 of 1986), the reinstatement of polygamy and the abolition of Law 75 of 1998, which allowed children born out of wedlock to be registered under their mothers' last names.[391] Most controversially, the first draft of the revised Constitution (released on 13 August 2012) contained article 28 on 'women's rights', which established the role of women within families as complementary to that of men.[392] This particular issue spurred a second wave of protests.

Ultimately, Ennahda failed in its attempts to extend the position of Islamic law in the Constitution and legislation. Article 28 was removed from subsequent Constitution drafts, as were references to Shari'a being the official and primary source of legislation, and Law 75 remains in place.[393] Ennahda's policy recoil can be linked to the actions of two groups. First, opposition from secular political factions within the Constituent Assembly threatened Ennahda's hold on power. Such opposition centred on the rebuke that Ennahda's reform agenda was inconsistent with the interpretation of Islamic law with which most Tunisians identified. A second factor was the strengthened role of civil society and women's participation in such movements. Thousands of women protested draft Constitution article 28, again focusing their argument on the idea that Ennahda's conceptualisation of gender relations was inconsistent with the multiple and diverse lifestyles of Tunisian women.[394] It should be highlighted that protests were not unilateral. Islamist women, particularly Ennahda members, voiced strong counter-opposition. The plurality and strength of civil society and the capacity of women to inform the political debate was thus no longer in question: gender equality had become a central tenet of Tunisian politics.

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[386] See generally A Arieff, "Political Transition in Tunisia" (15 April 2011) Congressional Research Service.

[387] R Dasgupta and G Bangham, *The New Constitution of Tunisia: Choices and Decisions* (The Wilberforce Society University of Cambridge, 2012).

[388] E Byrne "The women MPs tipped to play leading roles in Tunisia's new assembly" *The Guardian* (London, 26 October 2011).

[389] Throughout the Ben Ali era, the ruling party (Constitution Democratic Rally) tried to curb any religious influence on Tunisian society by prohibiting the formation of any religion based political parties. Following the revolution of early 2011, more room was created for religious political parties to operate in the country. G Sadek, "The Role of Islamic Law in Tunisia's Constitution and Legislation Post-Arab Spring" (2013) *The Law Library of Congress* <http://www.loc.gov/law/help/tunisia.php>

[390] The NCA was mandated to draft a new constitution, drawing on the 1959 Constitution.

[391] On the basis that such legislation promoted adultery.

[392] Draft Constitution of the Republic of Tunisia 2012.

[393] Security tensions escalated with a political assassination in late July 2013. Widespread protests convinced first the Ennahda affiliated prime minister and, later, the party as a whole to resign from government. Ennahda earned democratic credibility in demonstrating their ability to peacefully give up power.

[394] There was also an online petition that gained 30,000 signatures. Women associated with organisations such as the Democratic Women's Association, La Ligue Tunisienne des Droits de l'Homme (LTDH), and L'Association des Femmes Tunisiennes pour la Recherche sur le Développment (AFTURD), pursued a variety of avenues to express their grievances with the article and to advocate for alternatives. S Karam,

On 26 January 2014, a new Constitution was passed with an overwhelming majority of 200 out of 216 votes. It has been lauded as the most modern in the Arab world with respect to women's rights.[395] This is not to say that women are completely protected. Women can lose custody of their children if they divorce and then remarry, there is inadequate legal protection against domestic violence and the gulf between women's protection in law and access to justice remains wide.[396] The landmarks in the evolution of women's rights within Tunisia's legal framework can hence be summarised as: the 1956 and the 1990's reforms, a misstep that was carefully avoided during the transitional period, and the constitutional rights and protections established in 2014. From these events, it is possible to draw the following drivers and enabling conditions:

1. Opportunities capitalised upon: The first and second sets of reforms were not principally driven by demands for enhanced gender parity or protection, but instead by state agendas that made the greater protection of women's rights politically appealing. While such situations cannot be manufactured, they can be capitalised upon. President Ben Ali saw himself as a progressive leader; women's groups evolving in the 1980s wound themselves into this discourse, and looked for opportunities and synergies by presenting women's legal rights as a symbol of modernisation and tool of political capital.

2. A strong civil society: Popular protest movements in Tunisia ended a 23-year presidency, were integral to Ennahda's legislative backtracking and may have been the principal factor in the political party's loss of power to Nidaa Tounes in October 2014. The significance of this burgeoning civil society played out clearly in the national dialogue around the draft constitution and women's rights.

3. Women' groups and their participation in popular movements: Women's groups played a critical role in presenting gender rights as an issue of political concern, reaching a high point during the transition where women took on new roles as protesters, activists and politicians. While the specific conditions necessary for women's organisations to strengthen are not clear and vary according to country context, it is clear that time plays a role. The work of women's rights advocates in the 1980s, while severely restricted, paved the way for the actions of such groups in the 1990s and 2000s.[397] It is also important to note the change in composition of women's groups, and how this may link to effectiveness. Women's associations in the 1980's were principally comprised of urban, elite women living in Tunis whose "interests were disproportionately represented in President Ali's policy formulations to the relative exclusion of poor women". The movements of 2010 brought together a much more diverse and representative group of women including both rural and urban women, as well as poor and privileged.[398]

4. The role of Islamist women and women in Islamist political organisations: The participation of women in the NCA profoundly shaped the constitutional and legislative reform debates. The role of Islamist women, in particular, supports evidence that "women who identify with Islam regard it as a significant source of their political engagement [...]".[399] The role of quotas for political participation is also illustrative. The division between genders seems to be less important than political division. For a group that may not have been supportive of women in political roles, what transpired was that Islamist parties were prepared to support women candidates rather than allow the election of a woman from another political faction. This is an important area for women's civic participation that requires more in-depth examination.

"Thousands rally in Tunisia for women's rights." (13 August 2012) Routers.

[395] Ennahda lost control of the parliament to secular party Nidaa Tounes in October 2014.

[396] Charrad (n 47).

[397] L Brand, *Women, the State, and Political Liberalization: Middle Eastern and North African Experiences* (New York: Columbia University Press 1998); E Beardsley, "In Tunisia, Women Play Equal Role in Revolution" *National Public Radio* (27 January 2011); N Zoughlami "Quel Féminisme dans les Groupes-Femmes des Années 80 en Tunisie?" 26 *Annuaire de l'Afrique du Nord*.

[398] Charrad (n 47).

[399] Charrad and Zarrugh (n 45).

Morocco: Struggling between Feminism and Islamism

Commencing in the 1980s, women's groups in Morocco launched a unified advocacy campaign to reform the *Shari'a*-based Code of Personal Status (1958), the *Mudawwana*. As part of this long-term movement, in 1992, the Union de l'Action Feminine established the '1 million signatures campaign'.[400] They argued that the law, derived from conservative interpretations of Maliki *fiqh*, privileged the position of men and that a process of *ijtihad* was required.[401] Such action reached a tipping point in 2000 with street demonstrations in Rabat and Casablanca. The debates that followed polarised Moroccan society, religious organisations and women's groups.[402] Both the government and women's rights organisations appealed to the young King Mohammed VI to intervene as Commander of the Faithful.[403] In April 2001 he established a commission for the reform of the *Mudawwana*, which was promulgated in 2004, among inflamed debates between Islamist groups and women's rights activists.[404] Today, the Moroccan Family Law is among the most progressive in the region. How this was achieved and the central role played by women's organisations, provides lessons for all Muslim countries.

There are three features that distinguish Morocco's process and, at least in part, explain its success. First, the reform movements were largely spearheaded by networks of women within the main Islamist movements, particularly Al-'Adl wa-l- ihsan and al-Tawid wa-l-islah, where women comprise around 30 percent of the total membership. That these groups supported female participation, both in large numbers and in leadership functions, as well as their gender activism, was unique to the region. The work of these Islamic organisations was complemented by an active women's civil society movement.[405] The composition of these groups may also have been important. While in both cases, membership largely comprised younger, middle class, and educated professionals,[406] they actively engaged broader civil society. Examples include legal literacy programs; gender awareness programs targeting youths and protection agents such as police, judges, and teachers; education curricula reform; women's leadership programs; and women's empowerment programs.[407] This facilitated popular engagement, broad consensus and facilitated events, such as the protests, that proved foundational to the reform process.

Second, the movement carefully chose their adversary and adopted a non-threatening approach. They defined their cause as challenging the legal source of women's oppression,[408] therefore pitching their battle with the state (specifically the legislature), and not the *ulama*, men, Islam or the King. Their argument was multifaceted: the *Mudawwana* was (i) unconstitutional (the Constitution guarantees full equality for all citizens) (ii) inconsistent with Morocco's international legal obligations (iii) contrary to Islamic doctrine that upholds the equality of women and men and (iv) represented a misalignment between family structures and law, with practical ramifications for families.[409] This 'something for everyone' approach combined with only tacit use of threats, made it easier for the movement to gain support from political power-holders.

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[400] Z Salime, *Between Feminism and Islam: Human Rights and Sharia Law in Morocco* 33-34 University of Minnesota Press (2011).

[401] Under the *Mudawwana*, a woman was a minor under the guardianship of her father, husband, or other male guardian. Marriage, employment and a passport required *wali* consent, the age of marriage for females was 15 (men could marry at 18), women could lose custody of their children if they remarried, and women could be divorced unilaterally and without judicial oversight.

[402] In April 1992, a *fatwa* was issued by al-Tajkani, a leading activist in the al-Islah wa-l-tajdid and one of the Islamist *ulama*. The director of Al Raya newspaper and executive member of al-Islah wa-l-tajdid stated that the petition was unconstitutional because of its marginalisation of Islam as the religion of the state. The *ulama* joined them quickly, writing an open letter to the Prime Minister and the president of the parliament, likening the petition to colonialism. They dismissed legitimacy of *itjihad* by the feminists groups on the basis that they lacked the mandatory expertise in Islamic knowledge. Zakia Salime, *Between Feminism and Islam: Human Rights and Sharia Law in Morocco* 15-16 (University of Minnesota Press, 2011) 46-47.

[403] According to Maliki *fiqh* that prevails in Morocco the King is considered to be the supreme representative of the nation and the symbol of its unity. Moreover, he descends from Prophet Muhammad's family and thus is entitled to proclaim personal ijtihad. Importantly, it was using this authority that King Mohammad VI announced the *Mudawwana* reforms on October 10, 2003. L Buskens, "Recent Debates on Family Law Reform in Morocco: Islamic Law as Politics in an Emerging Public Sphere" (2003) 10 *Islamic Law and Society* 70-131.

[404] Z Mir-Hosseini, "How the Door of *Ijtihad* Was Opened and Closed" (2007) 64 *Washington and Lee Law Review* 1499-1511.

[405] For example, the Democratique des Femmes du Maroc and Union l'Action Feminine.

[406] Salime (n 71) 6-8, 14.

[407] ibid 143-4; 126-8. For example the group Women Companions of the Prophet who conducted awareness-raising on women's rights in Islam.

[408] ibid 44, 23.

[409] ibid 37.

Third, the movement carefully warded off their competition. They made a concerted effort to distinguish the movement from the Western feminist discourse by presenting it as an Islamic imperative. The struggle was thus not for women's rights, but for family rights and this required the correct positioning of women in the family unit as envisaged in the Holy Scriptures.[410] They highlighted that *ijtihad* had previously been used to reform family law in Morocco, then built legitimacy around these arguments through evidence-based links to Quranic verses and *hadith* supporting gender equality, equality of rights and duties, men and women's mutual responsibilities towards each other, and their equal responsibilities towards God. An indicator of their seriousness to ground each of their demands in Islamic doctrine was their removal of a call for equal inheritance (an unambiguous issue in the *Qur'an*) from an early version of the 1 Million Signatures Campaign.[411] This moderate approach, closely aligned to Islamic precepts, limited their exposure to criticism from traditional Islamists as well as secular conservatives.

Other events and players that were critical to the reform process include:

1- Women's groups aligned themselves to and found allies in international organisations. Such organisations proved an important platform for legitimising their actions and provided an enabling structure through both tools such as the Committee on the Elimination of all forms of Discrimination against Women and opportunities for policy debate. The Office for the Integration of Women in Development (within the Ministry of Foreign Affairs) was UN-funded and was largely a by-product of the Fourth World Conference on Women: Action for Equality, Development and Peace (Bejing, 1995), and the adoption of the Convention on the Elimination of All Forms of Discrimination against Women by the General Assembly in 1979. At the same time, groups were careful not to align themselves too closely to international movements, many not using foreign funding in campaigns to protect themselves from accusations of Western influence.[412]

2. The production of evidence and scholarship, particularly on demography and gender, was key to legitimising the movement's arguments and mobilising civil society. Such knowledge was produced by both internationally-funded local research groups, and government agencies. A similarly important role was played by non-scholarly information products, such as magazines that devoted space to discussing women's issues, thus facilitating broad and active civic debate.[413]

3. The inclusion of women in the production of Islamic knowledge, decision-making pertaining to religious affairs, and religious policy- making proved critical. Such liberalisation commenced in 2000 with the Ministry of Islamic Affairs permitting women to deliver sermons in mosques and at important state events. In 2004, the King appointed 30 women to the Ulama Council and one to the Supreme Council of Ulama.[414]

4. The Casablanca attacks opened new spaces for discussions on gender. In the aftermath of the events, Morocco needed to position itself as a player in the war on terror, and seized opportunities to present itself as progressive and democratic. Women's movements latched onto this momentum, presenting their demands as a fence against religious extremism and a pledge of the state's commitment to modernity. The revision of the Family Code also facilitated this.

The Morocco case study illustrates the potential for *ijtihad* as a tool to promote a more comprehensive set of legal protections for women, and simultaneously how the legal system can be a vehicle for social change.

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[410] ibid 21, 23, 32, 140-141. The group actively distinguished themselves from modern feminists who were perceived as seeking to divide men and women and cause family division. They heralded *Shari'a* as being supreme over international conventions.
[411] ibid 33, 49-50, 86.
[412] ibid 23-29, 41, 144.
[413] ibid 26, 42-44, 35-6, 44.
[414] ibid 129-131, 142.

Women's organisations largely orchestrated this, not by side-lining Islam, but by making it a partner in their demands for reform. Their success can be seen as a product of strategic planning and then capitalising on a particular moment in time. The Casablanca attacks provided a fertile political climate, which created greater room to manoeuvre. The role of the new King was also a key factor, since he and the ruling elite decided to side with women, in the face of Islamist extremists.

Conclusion

This chapter highlights a number of challenges faced by women in WANA countries upholding their rights and protecting themselves from violence. These include deficiencies in the legal protection framework, legal illiteracy and poor access to the justice system. These drivers leave women vulnerable to specific forms of rights violations and contribute to their overall marginalisation. A key finding is that it is tribal and customary practices that are the dominant obstacles to enhanced women's protection and empowerment rather than religion and deficiencies in the legal framework.

New, innovative strategies are needed to break the current impasse of gender discrimination and strengthen legislative protections. Policy makers and women's rights groups need not only look to the international legal framework and treaty obligations, which may be perceived as incompatible with local culture, an affront to Arab identity and/or a form of cultural imperialism. Countries in the region already have a strong and culturally legitimate platform from which to protect women: Islam. Not all, but many of the laws that operate to marginalise women directly abrogate fundamental Islamic principles including protection of the vulnerable, the proscription of violence and the best interests of the child. Government, religious and civil society stakeholders must work, and in fact have a duty, to promote the better protection of women on the basis of Islamic principle. Protection agents must overcome the dominant patriarchal mentality and base their decisions and teachings on the key Islamic principles of justice, protection and accountability. Jurists might also evaluate the need to reassert their role as mediators between God's word and society, through the reform of laws to bring them into compliance with Shari'a in the context of contemporary needs.

At the same time, reform is not a panacea. We must look for solutions that give immediate, practical and meaningful relief to women. Moreover, donors should be sympathetic to programmes that — although not completely fixing the problem from a strict gender rights perspective — eliminate the extremes and reduce the vulnerability of the greatest number. An inter-sectoral and multi-disciplinary approach is far more likely to be more successful than law reform on its own.

In short, states seeking to increase the empowerment of women should not abandon their Islamic tradition; on the contrary, it should strengthen its reach and influence. In the words of His Royal Highness Prince El Hassan bin Talal, recalling a statement by his brother, King Hussein: "We must rise to the level of Islam rather than revert to it". Tribalism and patriarchy are not part of the region's religious history and are arguably holding it back. Only through a process of societal awakening, that builds awareness around the key messages of Islam and draws a distinction between religious and cultural norms, will religion regain its place, not as women's captor, but as their best ally.

Access to Justice in Tribal Societies – Examples from Jordan

Dr Erica Harper

Understanding justice systems that developed over millennia before the advent of the state and still operate today is critical to strengthening access to justice in the West Asia-North Africa (WANA) region. Recognition of the important role of such non- state justice systems and their complex linkages with other justice systems has grown in recent times, to the extent that it has been posited as "perhaps the most significant trend in justice reform efforts in the last decade."[415] In spite of this, there remains a dearth of research on the topic in WANA.

Most countries in the region are characterised by legal pluralism and have several justice systems, which interact in multiple ways: tribal dispute resolution processes, shari'a (Islamic) courts and state courts.[416] The obstacles to accessing justice are not dissimilar from other countries. They include financial barriers, a weak legal aid system, low legal awareness, discriminatory substantive laws and a lack of trust in state institutions. However, there has been little research on the interconnection between access to justice and tribal dispute resolution principles and processes. In response, this chapter outlines the basic tenets of tribal law, its legal principles and the processes for resolving disputes, and shows the implications for access to justice.

Defying predictions made in recent periods of state building, notions of 'tribe' and 'tribal law' remain strong. They are inextricably tied with identity for many North Africans and West Asians — from the national to the village level. In Jordan, for example, the majority of the population has tribal affiliations, whether the tribes in question are primarily settled, semi-nomadic or nomadic.[417] Almost all original Arabs derive from Bedouin, a nomadic desert-based people. This means that similar principles and processes for governing justice and security, which were developed over thousands of years of harsh desert living, are the basis for almost every tribe in the region, even those who now live a sedentary lifestyle. Shari'a and state law may have largely replaced the intricacies of a comprehensive tribal legal code. However, the central principles and processes of dispute resolution are still prevalent today.

As legal scholar-practitioners Chopra and Isser have pointed out, discrimination is not generally an intrinsic part of any one particular justice system. Rather, justice systems reflect and perpetuate aspects of the society in which they are embedded, such as asymmetric power relations between men and women.[418] This chapter shows that tribal dispute resolution principles and processes both reflect the social norms and gender asymmetries in society today, and impact the extent to which women can access justice through the state and shari'a system.

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[415] T Chopra and D Isser, 'Access to Justice and Legal Pluralism in Fragile States: The Case of Rights' (2012) 4(2) *Hague Journal on the Rule of Law* 337, 338. The author recognises the debate on the appropriate terminology as between 'informal', 'customary', 'traditional' and 'non-state' systems. The author also recognises the debate in legal pluralism scholarship as to 'what is law', preferring to use justice or dispute resolution system.

[416] The latter has been influenced by old European codes that were adopted during the Ottoman period, English common law introduced during the mandate between 1921 and 1946, followed by Egyptian and Syrian legislation and most recently, international law. In relation to international law, Jordan ratified the Convention for the Elimination of Discrimination Against Women (CEDAW) in 1992, but with several reservations.

[417] G bin Muhammad, *The Tribes of Jordan: At the Beginning of the Twenty-first Century*, (1999) 12.

[418] T Chopra and D Isser, 'Access to Justice and Legal Pluralism in Fragile States: The Case of Rights' (2012) 4(2) *Hague Journal on the Rule of Law* 337, 352.

Bedouins and Tribes in the WANA Region

From the earliest recorded history until the end of the Ottoman Empire in 1918, people living in large swathes of desert in the WANA region were essentially left to their own devices; government or empire authorities confined their presence to capitals at the edge of the desert.[419] These people are commonly referred to as Bedouin in English; a word derived from the Arabic *badawiyin*, meaning 'inhabitants of the desert'.[420] As in many isolated places around the world, the Bedouin people developed a system of law based on principles and processes designed to ensure their security and survival; a customary justice system for conflict resolution.

In order to survive in the sparsely populated but harsh, resource-poor desert, traditional Bedouin society developed strong collective bonds within independent family groupings. Sonbol describes that "living closely together and being highly dependent on each other meant greater tribal unity cemented by possessive pride in tribal honour, the tribal name and an intertribal clan hierarchy built on loyalty and respect."[421] In short, tribal solidarity was required of everyone belonging to the tribe in order to ensure survival.[422] The largest natural grouping was the *ashira*, followed by *hamulas*,[423] and both can be translated by the English term 'tribe'.[424] The Bedouin tribal structure is patrilineal (blood relationship descent through the male line), and headed by male leaders, known as *sheikhs*. The next main grouping is the clan, or *khamsa*, which is headed by a *kabir* (elder).[425]

Even though few people today live nomadically in the desert, the legacy of the need for tribal solidarity is still strong. Like several other principles established during thousands of years of isolated desert living, tribal solidarity affects the current conception and operation of justice. Nevertheless, tribal structures, principles and processes of dispute resolution are not static. They continue to adjust, albeit slowly, in response to societal changes. Indeed, they have done so for many centuries, adapting to the advent of Islam, and to processes of urbanisation and globalisation.

It is clear that tribal society and methods of dispute resolution in the WANA region predate Islam.[426] However, since the advent of Islam in the seventh century, Islam has influenced aspects of tribal culture and dispute resolution.[427] At the same time, many Arab tribal customs were incorporated into Islamic teaching.[428] Even where this did not occur, the rule of *al-urf wa-l-'adah* allowed for tribal customs to remain a legitimate source of law, even within Islam, as long as they did not contradict *shari'a*.[429]

Because of the East Bank area's poverty relative to its resource-rich neighbours, Jordan was not of particular interest to colonial powers for many centuries. Even during the Ottoman period, whose land policies caused displacement among many Bedouin in the WANA region, the Transjordan area was far from the centre of power or economic influence. In the absence of state security systems being established during this time,

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[419] B Clinton, *Bedouin Law from Sinai and Negev: Justice without government*, (2009) 9.

[420] Arguably the label 'Bedouin' is only appropriate for the minority of people who still live nomadically in the desert. However the terms 'tribe' or 'tribal' continue to hold resonance for so many in Jordan. Accordingly they will be used for the remainder of this paper. In other literature, tribal-based dispute resolution systems are known by a variety of terms such as customary justice systems, traditional systems or non-state legal systems.

[421] A E-A Sonbol, *Women of Jordan: Islam, Labor, and the Law*, (2003) 43.

[422] A Furr and M Al-Serhan, 'Tribal Customary Law in Jordan' (2008) 4(2) *South Carolina Journal of International Law and Business* 17, 18.

[423] A Al-Ramahi, *Competing Rationalities: The Evolution of Arbitration in Commercial Disputes in Modern Jordan, PhD*, (2008) 127. citing F Al-Kalani, *Shariah al-ashaer fi al Watan Al-arabi (The customs of the tribe in the Arab countries)*, (1985) . See also, D Pely, 'Women in Sulha - excluded yet influential' (2011) 22(1) *International Journal of Conflict Management* 89, footnote 1.

[424] There are also larger units, which may gather together in conflict that could be described as confederations of tribes, known as *fakdh* (sub-confederation) and *qabila* (confederation); Clinton (n 5) 12-13.

[425] ibid, 13.

[426] E Jabbour, *Sulha Palestinian Traditional Peacemaking Process*, (1993) 13., A Furr and M Al-Serhan, 'Tribal Customary Law in Jordan' (2008) 4(2) *South Carolina Journal of International Law and Business* 17, 17., K Blue Carroll, 'Tribal Law and Reconciliation' (2011) 65(1) *Middle East Journal* 11, 12.

[427] A Kadayifci-Orellana, *A standing on an Isthmus: Islamic Narratives on War and Peace in Palestine*, (2007) 261-262.

[428] A Al-Ramahi, *Competing Rationalities: The Evolution of Arbitration in Commercial Disputes in Modern Jordan, PhD*, (2008) 75., S Kirazli, 'Conflict and Conflict Resolution in the pre-Islamic Arab Society' (2011) 50(1) Islamic Studies 25,

[429] A Al-Ramahi, '*Sulh*: A Crucial Part of Islamic Arbitration' (2008) 12/2008 *LSE Law, Society and Economy Working Papers* 6.

"tribal forms of protective social economic affiliation expressed through kinship… [were] not limited to nomads; rather the tribes of Transjordan filled every economic niche… forming a complex web of integrative social alliance."[430] Thus, when the Transjordan Emirate was formed in 1921 most of the population was still organised primarily along tribal lines. The tribe was people's "principle frame of reference."[431].

In the early stages of Jordan's statehood the new government recognised tribes as a basic administrative unit for many purposes and encouraged tribal methods of dispute resolution to maintain security, law and order.[432] Over the following decades, while the political, military and economic dominance of the state grew, tribal identity together with its ways of resolving disputes, was encouraged. For example, Bedouin were specifically recruited to fill the ranks of the military and security sectors, as well as prominent government positions.

In the 1950s-1960s, a combination of unusually severe weather conditions, targeted government policies and services, and urban employment opportunities resulted in the sedentarisation of many Bedouin in the WANA region. By the late 1970s, it was estimated, that only 3 percent of the Bedouin population lived nomadically.[433] Political theorists during this time predicted that the role of the tribe would wane almost completely as the state provided more and more direct services.[434] However, this proved inaccurate. Moving to a sedentary lifestyle did not spell the end of tribalism.[435]

To take one example, while tribal allegiance may not hold first claim for many Jordanians today, it is certainly neither meaningless nor peripheral to many. It is largely unknown to what degree people who have come to Jordan from the Palestinian territories, Iraq and Syria have the same understanding of tribe. However, given the importance of tribal identity in Iraq, Syria and Palestine, this is definitely not an unknown concept. Many of them certainly share a Bedouin history similar to the East Bank Jordanians; Bedouins historically lived in significant parts of modern day Jordan, Israel and the Palestinian territories, Egypt, Saudi Arabia, Yemen, Libya, Iraq, Kuwait and Syria.[436] There is anecdotal evidence that in some cases Jordanians of Palestinian and Iraqi origins have adapted to the strong sense of tribalism in Jordan. For example, some large families have invested in a meeting location "in order to exaggerate their special influence and place themselves on equal footing — in power and influence — with the tribal constellations typical of the indigenous Jordanians."[437]

Regardless, it is clear that in several areas such as dispute resolution, elections and patronage, tribal identity and loyalty remain very strong.[438] Part of the reason for this enduring strength is that Bedouin heritage was, and still is, strongly connected with ideas of national identity and national politics. It forms the basis for legitimacy of several monarchies, which originally chose to rule indirectly through tribal structures.[439] In Jordan, this tradition began with Abdullah I by maintaining a chieftaincy-like political system based on close personal relations, tribal identity and mediation, and this has not changed very much over the course of time.[440] Ramahi, in describing the relationship between tribe and state in Jordan, notes "the legitimacy of tradition, considered almost synonymous with Bedouin or tribal culture, has been defended as part of the

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[430] M C Wilson, *King Abdullah, Britain and the Making of Jordan*, (1987) 57.

[431] Y Alon, *The Making of Jordan: Tribes, Colonialism and the Modern State*, (2007) 13.

[432] Al-Ramahi (n 14) 120; see also M A Nowar, *The Development of Trans-Jordan 1929-1939: A History of the Hashemite Kingdom of Jordan*, (2005) 111.

[433] P Jureidini and R d McLaurin, Jordan: *The impact of social change on the role of the tribes*, (1984) 14.

[434] ibid 14; E Gao, 'They're Here to Stay: Tribes and power in contemporary Jordan' in D Sindic, M Barreto and R Costa-Lopes (eds), *Power and Identity* (2015) 54.

[435] R Bocco, 'International organisations and the settlement of nomads in the Arab Middle East, 1950-1990' in M Mundy and B Musallam (eds), *The Transformation of Nomadic Society in the Arab East* (2000) 214., R Antoun, 'Civil Society, Tribal Process, and Change in Jordan: An Anthropological View' (2000) 32 *International Journal of Middle Eastern Studies* 441, 446.

[436] See G bin Muhammad, *The Tribes of Jordan: At the Beginning of the Twenty-first Century*, (1999) 9-12.

[437] N Murad, *The Tribe and the Law*, The Jordan Times, (Amman January 12, 2014), available at http://jordantimes.com/the-tribe-and-the-law

[438] Gao (n 20) 56.

[439] Alon (n17) 1 and Y Alon, 'The Tribal System in the Face of the State-formation Process: Mandatory Transjordan 1921-46' (2005) 37 *International Journal of Middle Eastern Studies* 213.

[440] Then King Hussein kept close personal ties with Bedouin peoples, "visiting them often, socializing in their tents and playing the role of paramount tribal sheikh." Al-Ramahi (n 14) 121. King Abdullah II also spends considerable time visiting around the country and meeting tribal leaders.

near sacrosanct foundations of the state and as central to cultural heritage."[441]

Included in this foundation are tribal principles and processes of dispute resolution. This is apparent from traditional nomadic families to the highest levels of state. Certainly, even today, the urbanised, educated and affluent are involved in tribal dispute resolution processes. However, with the exception of so-called honour killing, there has been little discussion or research about the effects this has on access to justice for marginalised groups, such as the poor, women and members of weaker tribes.

Principles and Processes in Tribal Dispute Resolution in the WANA Region

Eight related principles and processes are central to tribal dispute resolution in the WANA region. Tribal processes seem to be primarily used today for violations against life, limb and honour. The first of these are referred to as 'blood crimes' and criminal responses to violations of the first are known as 'honour crimes'.[442] As mentioned, tribal principles and processes of dispute resolution are used not just by those living nomadically but also by people of all socio-economic backgrounds with tribal affiliations living in villages or cities.[443] None of these is exclusive to a particular country or to Muslims; they are also used in many other parts of the WANA region, including in some Christian and Druze communities in Palestine.[444]

Asabiyya

Roughly translated as solidarity, *asabiyya* is often used in the context of tribal or family collective responsibility. It can be described as "the fundamental basis of tribal society", connecting every member of the tribe to each other in a reciprocal arrangement.[445] It has also been explained as:

a social code where the overriding necessity is that tribe or clan hold together and defend each other in order merely to survive in the face of other foreign and marauding nomads, and in the face of severe desert conditions which make this survival impossible except through the unity, co-operation and symbolic divisions of roles.[446]

Collective responsibility is central to the processes used to deal with conflict.[447] Even where tribal networks are widely dispersed, strong solidarity is still expected, for example in terms of election voting or when blood or honour crimes occur.[448] One expression of tribal solidarity is when a member is loyal and supports his tribe, he would expect that his tribe in turn supports and takes responsibility for him, even when he offends. This is expressed in the Bedouin saying 'aid your brother whether oppressed or oppressor'.[449] Belonging to a tribe and knowing the tribe will defend and offer support if needed[450] seems to apply equally to "outwardly 'westernized' individuals from old settled tribes [who in times of crisis] will fall back on modes of behaviour and considerations that are entirely tribal."[451]

In legal terms, *asabiyya* defines legal personality in the collective, and there is mutual liability within this

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[441] ibid.

[442] *Jordan: Tribal law, including whether it allows murder as revent; whether tribal law overrides the legal justice system [JOR104416.E]* (2013) available at http://www.ecoi.net/local_link/256891/368860_en.html, Sonbol (n 7) 190 and Furr and Al-Serhan (n 8) 23.

[443] Antoun (n 21) 446.

[444] D Pely, 'Women in Sulha - excluded yet influential' (2011) 22(1) *International Journal of Conflict Management* 89, 89., A Kadayifci-Orellana, *A standing on an Isthmus: Islamic Narratives on War and Peace in Palestine*, (2007) 266.

[445] Al-Ramahi (n 14) 129.

[446] Muhammad (n 22) 22.

[447] R Patai, *The Kingdom of Jordan*, (1957)

[448] Furr and Al-Serhan (n 8) 21. For more tribal influence in elections, see Gao (n 20) 56-58.

[449] Muhammad (n 22) 23.

[450] ibid 18.

[451] ibid. He gives an example of a former minister and University Chancellor whose entire higher education had taken place in the West, who considered a blood feud when he thought his brother had been murdered.

group; when one man's acts violate the rights of others outside his clan he is seen to be acting as an agent, or extension of his clan.[452] This collective conception of rights sees the best interest of the tribe as taking priority over individual cases of injustice. This means that individuals might be pressured not to take cases to court that are seen to not be in the best interests of the tribe or its reputation. It also means that the tribe will support their member, regardless of their actions, even to the extent of influencing court decisions.

The strength of *asabiyya* in a tribe demonstrates its strength to others. Thus, the reputation, size and associated power of the tribe (including the protection that it extends to its members) affects the choice of whom to marry, which university to go to or what quality of justice one receives. As expressed by Murad: "clout and sense of justice is clearly defined by … tribal alliance and the level of that clout is defined by the influence and size of the tribe."[453]

Sharaf

Sharaf, meaning honour or social standing,[454] plays a pivotal role in all aspects of life in the region.[455] *Sharaf* relates both to the whole tribe, and to individuals within it.[456] In dispute resolution, *sharaf* "is a flexible concept that can be used to legitimise feud and revenge as well as forgiveness, reconciliation, and mediation"[457] *Sharaf* is increased and diminished according to a range of factors; breaking an agreement reached following a dispute, for example, would greatly diminish *sharaf*.

Sharaf is also strongly connected to the concept of reputation, the restoration of which is central to the Bedouin view of justice. In traditional Bedouin society, law essentially means a right (*haqq*), particularly to life, limb, honour and property.[458] When a rights violation occurs, the victim must restore this — either through physical revenge or mediation. As these norms developed in the absence of any government authority able to enforce such principles, each man, aided by his clan, was responsible for this. A key strategy was deterrence, primarily through collective solidarity, but also by having a reputation of being strong and "resolute in rectifying each and every infraction of his rights."[459] Bedouins express this idea of justice metaphorically with the image of a camel walking through the desert carrying a load. If someone's rights have been violated and not yet rectified, this is compared to when a camel's load is unbalanced so that it cannot continue, destined to die in the desert. Justice is achieved when the right has been rectified, therefore restoring honour and a reputation for strength and resolve. Metaphorically, this is when the camel's load has been re-balanced and it is able to continue walking (restored right and rectified balance are both expressed by the noun '*adl*).[460]

Ird

Ird also means honour, but specifically in relation to women and most often to their reproductive and sexual lives.[461] In early society, women were highly important for securing tribal lineage.[462] Reliable descent was essential, requiring chastity from women before and after marriage.[463] Accordingly, *ird* demands virginity for

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[452] Clinton (n 5) 60.

[453] Murad (n 23). For more on the importance of tribe's size, see Clinton (n 5) 69-70.

[454] It is also strongly related to two other Bedouin values: offering hospitality (*diyafa*) and courage (*hasama*). A Abu-Rabia, 'Family Honor Killings: Between Custom and State Law' (2011) 4(1) *The Open Psychology Journal* 34, 34.

[455] A Shryock, 'House Politics in Tribal Jordan: Reflections on Honor, Family and Nation in the Hashemite Kingdom' in E Conte, P Dresch and L Valensi (eds), *Tribu, Parentele et Etat en Pays d'Islam* (2000).

[456] P C Salzman, 'The Middle East's Tribal DNA' (2008) 25(1) *The Middle East Quarterly* 23, 31., A E-A Sonbol, *Women of Jordan: Islam, Labor, and the Law*, (2003) 45.

[457] S Ozelik, 'Islamic/Middle Eastern Conflict Resolution for Inter-personal and Intergroup Conflicts: Wisata, Sulha and Third-Party' (2006) 3(12) *Uluslararasi Iliskiler - International Relations* 3, 12.

[458] Clinton (n 5) 16.

[459] ibid 17-18.

[460] ibid 19.

[461] M Hasan, 'The Politics of Honor: Patriarchy, the State and the *Murder of Women in the Name of Family Honor' (2002) 21(1-2) Journal* of Israeli History: Politics, Society, Culture 1, 6. The corollary of sharaf and *ird is hashama, 'aib or 'aar*, which each relate to shame.

[462] Salzman (n 42) 28.

[463] Sonbol (n 7) 44.

the unmarried, as well as that married women remain faithful.[464] In addition, it requires women to maintain a good reputation, act and dress modestly and be above any suspicion.[465]

Ird is also connected with the idea of reputation and strength; if men cannot protect their women from violation they will be seen as weak. Another interpretation is that in failing to control the sexual behaviour of a woman under his responsibility, a male becomes 'ungendered' and considered effeminate by his peers.[466] In this way, ird does not actually refer to women's honour, but to the honour of the men to whom they are related.[467] The woman is a symbolic vessel for male honour (*sharaf*) and her actions reflect upon the males of her family and tribe.[468]

Through the beliefs relating to ird, men control and restrict women's behaviour.[469] A threat to ird undermines male control, which prompts action by men to restore their domination, reputation and corresponding *sharaf*.[470] Whether collective tribal honour was always so strongly tied with ird is contested. Sonbol claims that tribal honour was formerly connected with the behaviour of both men and women, and that over time, this has shifted to a more exclusive focus on women[471] and to acts beyond sexual conduct.[472]

Loss of *ird* is passive and irredeemable by women. It can only be restored by male action, generally a male of close blood kinship. This is expressed in the Bedouin saying 'dirty women must be cleaned by her family'.[473] Common means of rectifying the dishonour caused by perceived serious violations of ird include marriage between the male and female who had sexual relations,[474] and honour killing, where the woman is killed by a close male blood relative.[475] Honour crimes reportedly take place in countries throughout the region including Jordan, Pakistan, Afghanistan, Iraq, Iran, Syria, Yemen, Saudi Arabia, Kuwait, Turkey, Egypt, Lebanon, Bangladesh, Israel and the Palestinian territories.[476] The practice is not an Islamic concept[477] and has been strongly condemned by notable Islamic leaders.[478] Shari'a, although it condemns adultery, specifies that there must be four witnesses of good reputation who witnessed the act before any punishment takes place.[479] In a case where the lega requirements are met, the penalty is not death, but flogging. Honour killing in West Asia seems to be a practice that is primarily drawn from a prevailing, although certainly contested, interpretation of Bedouin tribal principles and processes.[480] Two points support this. First, within West Asia it has been practiced in Palestinian communities that are Druze and Christian.[481] Second, it is extremely uncommon in Muslim countries outside of West Asia.

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[464] Al-Ramahi (n 14) 145.

[465] I Glazer and W A Ras, 'On Agression, Human Rights, and the cAse of Murder for Family Honor in Israel' (1994) 30(3/4) *Sex Roles*

[466] R Ruane, 'Murder in the Name of Honor: Violance Against Women in Jordan and Pakistan' (2000) 14 *Emmory Int'l L. Rev*. 1523, 1532.

[467] Hasan (n 47) 3.

[468] Ruane (n 52) 1531.

[469] Hasan (n 47) 3.

[470] ibid.

[471] Sonbol (n 7) 43.

[472] Hasan (n 47) 3.

[473] Furr and Al-Serhan (n 8) 17, 29.

[474] R Husseini, *Murder in the name of honour*, (2009) 48; Abu-Rabia (n 40) 36.

[475] F Faqir, 'Intrafamily Femicide in Defence of Honour: The Case of Jordan' (2001) 22(1) *Third World Quarterly* 65,

[476] HRW "Jordan: Tribunals no substitute for reforms on 'honour killings': Changes to Penal Code Needed to help save women's lives, September 9, 2009. The issue is not confined to the WANA region, with growing reports of honour killings by first and sometimes second-generation immigrants to the UK, Europe and the USA. In addition, Human Rights Watch has documented many cases, including mitigated sentences for the male perpetrators, in parts of Southern America including Brazil and Ecuador.

[477] M Hussain, '"Take My Riches, Give Me Justice": A Contexual Analysis of Pakistan's Honor Crimes Legislation' (2006) 29(1) *Harvard Journal of Law & Gender* 223, 235-237.

[478] For example, by the Grand Mufti ahmad Badr Eddin Hassoun, Syria's highest-ranking Islamic teacher, Grant Ayatollah Mohammed Hussein Fadllah, top Shiite cleric in Lebanon and Egypt's Grant mufti, as described in K Zoepf, 'A Dishonorable Affair: Chastity and Honor Killing in Syria' in S Khalaf and R S Khalaf (eds), *Arab Society and Culture* (2009) 163-165. For an in-depth examination of why this practise is not Islamic, and on the relationship between tribalism and Islam, see Muhammad (n 22) 21-54.

[479] Quran 24:2-5

[480] See, for example Clinton (n 5) 81-82; Zoepf (n 64)163 and Sonbol (n 7) 196-197.

[481] J Ginat, *Blood Revenge: Family Honor, Mediation and Outcasting*, Second edition ed (1997) 70.

Sulha

Sulha is a process used to deal with a range of disputes, but today it is used most commonly to diffuse inter-clan tension stemming from criminal cases involving injury or death, whether intentional or accidental.[482] The root of the word is *s-l-h*, which in Arabic entails notions of peace and the physical act of settlement.[483] Others also include notions of reconciliation, and so it differs from the root s-l-m, which is used to describe peace, as in an absence of conflict.[484] *Sulha* is generally attained through a negotiated agreement reached directly or, more often, with the help of third parties and therefore goes beyond peace. The final step in its fulfilment is usually a public reconciliation ceremony demonstrating *musalaha*.[485]

Never being about guilt, a central goal of *sulha* is to avoid escalation of a conflict between families or tribes,[486] or to re-establish peace by restoring honour.[487] In this way it is strongly connected with *asabiyya* and its inherent notion of collective responsibility and action: a matter initially between two people can quickly escalate into a tribal feud[488] and this is a strong incentive to end disputes quickly. In this way *sulha* can be seen as a rational response to harsh desert living without government, where *sulh* is almost always "a better alternative than endless cycles of vengeance" between competing tribes.[489]

Sulha in the tribal system places a high value on the reconciliation of parties, and the implementation of settlements relies on voluntary agreement between the families (and often public approval).[490] The primary aim is not to attribute individual guilt or deliver sanctions; rather it is to "close a conflict, to end social upheaval, to recreate or mend the broken links between the parties and to restore social relations." It is thus based largely on a communal and restorative framework, in contrast to state systems that tend to have more punitive and deterrence focused goals and address the relationship between individuals or individuals and the state. The Bedouin saying that reflects these divergences in approaches to justice is: "the state courts neither heal the sick nor quench the thirsty".[491]

Jalwa

The first step taken after a serious crime is committed is usually *jalwa*. This is when, if the incident happened between two geographically close tribes, the offender and his extended family move to another area. The purpose is to "reduce the attendant tensions of the situation and avoid retributive offences."[492] There were at least 16 incidents of *jalwa* reported in Jordan in 2011, including an evacuation of more than 100 families in al-Zarqa.[493] Relocation results in serious disruption to employment, accommodation and schooling, not to mention the right to freedom of movement. In Jordan, police are often involved in supervising *jalwa*, ostensibly under the Crime Prevention Law No.7 1954.[494] Sometimes this process is undertaken willingly,

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[482] B A Kritz, 'Palestinian *Sulha* and the Rule of Law' (2013) 27 *Arab Law Quarterly* 151, 152; Ozelik (n 43)10.

[483] Pely (n 30) 80.

[484] D Smith, 'The Rewards of Allah' (1989) 26(4) *Journal of Peace Research* 387.

[485] In some scholars' interpretations, *musalaha* is the process of reconciliation, and *sulha* is merely the ritualistic event. See, for example, M Abu-Nimer, *Nonviolence and Peacebuilding in Islam: Theory and Practice*, (2003) 99.

[486] B U I o Law, *Informal Justice: Rule of Law and Informal Justice in Palestine* (2006) 112-113.

[487] Blue Carroll (n 12) 13.

[488] Al-Ramahi (n 15) 4-5.

[489] Al-Ramahi (n 14) 155.

[490] Patai (n 33).

[491] Al-Ramahi (n 14) 139. While there are certainly also many differences between tribal conflict resolution and *shari'a* law, some tribal dispute resolution principles were affirmed by Islam. For example, it has been argued that Islam sees reaching *sulh* as the ethically and religious best was for parties to deal with a dispute. The Prophet Mohammed encouraged people pursue *sulh*, saying it was more rewarding than fasting, praying and offering charity. Ibid pp.66-68; several passages in the Qur'an encourage parties to use sulh to deal with disputes. For example Verse 128 Sura Nisa (Women) states that "Reconciliation between them, and reconciliation is better" and Verse 9 in Sura Al Hujurat (the Chambers) states "If two parties among the Believers fall into a quarrel, make ye peace between them… make peace between them with justice and be fair: For God loves those who are fair and just." Al-Ramahi (n 15) 10; see also A Othman, ''And amicable settlement is best': Sulh and dispute resolution in Islamic law" (2007) 21(1) *Arab Law Quarterly* 64,

[492] Al-Ramahi (n 14) 147.

[493] A Halasa, "Jalwa in Jordan: Customary Law and Legal Reform" Legal Agenda, 10 December 2013, available at http://www.english.legal-agenda.com/article.php?id=565&lang=en

[494] ibid.

but on other occasions it is forced. The period of the *jalwa* depends on the type of crime. In cases of murder the usual period is up to seven years, but if a person has been wounded, the *jalwa* lasts only until those wounds have healed.[495]

Atwa

Sometimes no jalwa is seen as necessary, and instead an *atwa* is negotiated,[496] which refers to a payment or agreement to enter into a temporary truce (*hudna*). Again, this is usually negotiated quickly to prevent retaliation by the victim's tribe, as per the notion of collective responsibility and action. According to Carroll's empirical research in Iraq, the ceasefires generally last between two to four weeks, but are renewable.[497] The *atwa* may have certain conditions attached to it, for example that the offender's family takes on *jalwa*, or that money is exchanged.[498] Today, an *atwa* will take the form of a formal agreement, signed by the parties and the witnesses.[499] Such signing, and even the implementation of *atwa*, may be supervised by state security forces.[500] Police may also enforce or even initiate a truce (*atwa amniyya*).[501] On other occasions, there is a period of peace until a judge resolves the matter (*atwa haqq*). Finally, a guarantor (*kafil*) will sign the agreement. In the absence of law enforcement agencies, guarantee (*kafala*) was seen as critical to the enforcement of the truce.[502] The *kafil* is normally a well-respected person, who is chosen because if there is any aggression between the parties that violates the truce, it is seen as a statement of contempt against him.[503]

Jaha

A *jaha* is a delegation of responsible, esteemed men. It will often include tribal elders and sheikhs, as well as religious authorities and state-appointed officials such as town mayors.[504] Their most common role is to represent a tribe and help negotiate a peaceful settlement with the other party.[505] The objective is to try and reach *sulh* through balancing and restoring honour, either by visiting the injured party's family to encourage them to agree to an *atwa*, or through a type of 'shuttle diplomacy', going between the two parties. There is sometimes an investigative component of the *jaha*'s work, where witnesses are heard and evidence examined.[506] If the facts remain unclear, the process may come to a standstill, resulting in either a state court case, or revenge being sought.[507]

Jaha will be involved to resolve of a range of cases, from marriage agreements to murder cases. The size of the *jaha* and prestige of its members depends on the seriousness of the case.[508] Serving as a member is a great honour and there is a corresponding pressure to be fair, unbiased and peace-seeking.[509] In Lebanon, for instance, the primary purpose of the *jaha* is not punishment, judgment or guilt "but rather, to preserve the good names of both the families involved and to reaffirm the necessity of ongoing relationships within the community."[510]

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[495] Al-Ramahi (n 14) 149.
[496] Blue Carroll (n 12) 14.
[497] ibid.
[498] Ozelik (n 43) 10.
[499] Al-Ramahi (n 14) 150.
[500] Furr and Al-Serhan (n 8) 26.
[501] ibid 24.
[502] For a detailed explanation of the traditional role of guarantors in Bedouin dispute resolution, see Clinton (n 5) 39-49.
[503] Furr and Al-Serhan (n 8) 25.
[504] See, for example in Antoun (n 21) where member involved include the local Islamic judge, the pasha (sheikh), state-appointed mayor, relatives and village elders.
[505] N Yassine-Hamdan and F S Pearson, *Arab Appraoches to Conflict Resolution*, (2014) 7.
[506] Blue Carroll (n 12) 14; in Carroll's research in Iraq, *shari'a* rule of evidence were followed in this process.
[507] ibid 15.
[508] C Witty, *Mediation and Society: Conflict Management in Lebanon*, (1980) 305., K Blue Carroll, 'Tribal Law and Reconciliation' (2011) 65(1) *Middle East Journal* 11, 13.
[509] Kritz (n 68) 155.
[510] L E King-Irani, 'The Power of Transformation and the Transformation of Power: Tirtuals of forgiveness and processes of empowerment in post-war Lebanon' in W Zartman (ed), *Traditional Medicine* (1999).

Wisata

Negotiations leading to *sulh* might be undertaken directly between *jaha* groups or involve an intermediary party. This party will be either a mediator, known as the *waseet*, or an arbitrator, known as hakam. The *waseet* is a respected person (or persons) such as a *sheikh*, who is agreed upon by the victim and offender's families. In a similar way to members of the *jaha*, "the waseet acts tactfully and with integrity as the proper resolution of the dispute impacts his reputation and social status."[511] In some major intertribal disputes, the state or members of the royal family may act as *waseet*. The main difference between *jaha* and *wisata* is that the former does not include extra-tribal elements, whereas the latter is a middle-man mechanism that is at most only loosely connected to the conflicting tribes.

The primary aim of the *wisata* is to reach *sulh*, by achieving justice — in the sense of restored honour and reputation — when rights are violated. Reaching a settlement often involves the mediator helping the parties to negotiate material compensation such as the payment of *diya* (blood payment) by money or goods such as animals or land. The approximate starting point for the amount is based on past similar cases or bilateral agreements between tribes.[512] The final amount agreed upon is als influenced by factors including the motivation for the incident, the suffering of the victim's family, the status of the victim and perpetrator, and the behaviour of the perpetrator, including whether he confessed quickly or not.[513]

Diya is not conceptualised as a replacement of the monetary worth of the person (in a case of death) but rather the "price of the damage to honour that results from giving up the right to retribution."[514] Accordingly, the *jaha* may often ask the victim to not accept the compensation settled upon, or to give it to a mosque or religious leaders.[515] This advice is often acted upon because of the notion that honour and reputation cannot be restored by money.[516] This practice is reflected in the Bedouin saying "getting justice is for reputation, not for filling the belly".[517] If compensation is accepted, technically it is received by those who would have been responsible for taking revenge, the male blood relatives of the deceased.[518] In practice, it will then be given in support of the victim's widow and children in the case of death, or to the victim, in the case of assault.[519] If the amount agreed upon is not available immediately, a *kafil* is used again to guarantee the final payment.[520]

Particularly in matters relating to marriage, divorce and less serious violations of honour, a process more like arbitration (*tahkim*) may occur.[521] The arbitration is carried out by tribal 'judges', who are elders from a separate clan than the two parties, who have distinguished themselves for their knowledge of custom and ability to make fair decisions.[522] During this process, both (male) parties take an oath while facing Mecca, after which they have the right to express their point of view or evidence, or be represented by someone else.[523] The judge then issues a decision, which is not considered enforceable but rather a final statement on a disputed point.[524]

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[511] Al-Ramahi (n 14) 152.
[512] Blue Carroll (n 12) 15.
[513] ibid. There seems to be variation relating to how much *diya* is expected for a woman. In some cases it is set at half as much as for a man of similar social standing, but other times it is much higher because of the damage to the tribe's reputation for protection. F Stewart, 'Customary Law among the Bedouin of the Middle East and North Africa' in D Chatty (ed), *Nomadic Societies in the Middle East and North Africa: Entering the 21st Century* (2006) 247.
[514] Blue Carroll (n 12) 16.
[515] Clinton (n 5) 35-36.
[516] S Ben Nefissa, 'The Haqq al-'Arab: Conflict Resolution and Distinctive Features of Legal Pluralism in Contemporary Egypt' in B Dupret, M Berger and L al-Zwaini (eds), *Legal Pluralism in the Arab World* (1999) 151; Blue Carrol (n 12) 16.
[517] Clinton (n 5) 20.
[518] Blue Carroll (n 12) 16.
[519] ibid.
[520] Furr and Al-Serhan (n 8) 26.
[521] ibid 28. For more, see Ozelik (n 43) 3.
[522] Furr and Al-Serhan (n 8) 28.
[523] ibid.
[524] A Ahdab, *Arbitration with the Arab Countries*, (1999) 11.

Once *sulh* is reached, there are numerous community incentives to adhere to the agreement.[525] For example, if revenge is taken following *sulha*, then four times the originally negotiated *diya* must be paid and the tribe will often not help with this payment. Further, reneging on a *sulha* agreement dishonours the *sheikh* who acted as guarantor to the agreement.[526] Most importantly, those who dishonour the sulh risk becoming social outcasts or being exiled from the tribe. Today, it is common for the state to require a written agreement of the *sulha* and to supervise its signing at a reconciliation ceremony.[527]

How Tribal Structures, Principles and Processes Affect Access to Justice

The principles and processes of the tribal system impact access to justice in their own right, and, particularly in the case of *asabiyya*, *sharaf* and *ird*, affect access to justice through both state and *shari'a* courts. These impacts are principally felt by two groups: women and minority tribes. At the same time, it is well established that discrimination and marginalisation are not generally intrinsic parts of any justice system. Rather, they — whether tribal, religious or state — reflect the society, in which they are embedded, including asymmetric power relations between men and women, rich and poor, or strong and weak tribes.[528] The gender asymmetries and discrimination that exist in WANA societies are thus reflected today in both tribal dispute resolution processes, as well as state justice systems. Because the state fails to offer a separate enclave of legal protection for women; the two groups that fare badly in this arrangement are women and minority tribes. Tribalism, state law and social norms hence operate in mutually reinforcing ways. By failing to offer certain groups adequate protection, they are rendered more vulnerable to violence and exploitation.

Women are excluded from direct access to almost every stage of the tribal dispute resolution process.[529] If women are victims or offenders, a male family member will generally represent them in negotiations. According to Palestinian *sulha* judge and scholar Jabbour, women are not permitted to speak before a *jaha* in any circumstances, whether as a witness, accused or victim.[530] Nor are they allowed to select members of the *jaha*, participate in developing the formal *sulha* agreement or serve as a member of the *jaha*.

Pely's qualitative research on *sulha* processes in the Palestinian territories is one of the few studies to examine women's involvement in tribal dispute resolution. His research shows that women have an indirect influence over many stages of the process.[531] For example, he describes how when a *jaha* first approaches the victim's family, women and young people of the victim's family are often allowed to vent their grief and frustration on the male members of the *jaha*, including through aggressive verbal abuse, which would normally not be considered acceptable. This provides a degree of acknowledgment of their suffering, a public outlet for their anger, and an understanding of their need to recover their lost honour.[532] He also describes how women throughout the process, often informally, contact individual members of the *jaha* to follow the process and make known their views — from the ceasefire stage, where women might argue with their male relatives to postpone the initiation of a ceasefire, until the final *sulha* agreement is made.

There are indications that in the past, not only did women have a greater role in tribal dispute resolution, there were also more mechanisms in place within the tribal system for the protection of women and their rights. For example, women in trouble could be sheltered by the sheikh of a tribe, and this would enhance the tribe's reputation.[533] While this practice is not entirely gone, it seems to occur less frequently. It is probable

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[525] Blue Carroll (n 12) 17.
[526] Clinton (n 5) 42.
[527] Furr and Al-Serhan (n 8) 27.
[528] Chopra and Isser (n 1) 352.
[529] Kritz (n 68) 164-165. Citing an interview with sulha expert Doron Pely, who maintains that women are officially allowed to participate, but in all his years of experience, he has never seen one.
[530] Ibid 165; Pely (n 30) 90.
[531] ibid 91.
[532] S Lang, 'Sulha peacemaking the politics of persuasion' (2002) 31(3) *Journal of Palestine Studies*
[533] For more about the Bedouin principle of protection see Clinton (n 5) 49-59.

that societal changes have led to the breakdown of some of these protections.[534] For example, increased urbanisation has resulted in tribal leadership being more decentralised and fragmented, and perhaps less able to provide protection to the same degree. This said, women may still receive 'tribal support' if they resolve a dispute within the tribe. While tribal dispute resolution processes such as *sulha* do not offer full rights or an ideal solution, a compromise settlement can often be reached. If women take the matter to the court, however, they will receive no tribal support and risk becoming isolated and vulnerable.

There are also general disincentives to take cases to court, including financial barriers, for example high lawyers' fees and minimal legal aid services; low legal awareness; geographic inaccessibility; and lack of trust in state institutions.[535] A further reason is socio-cultural barriers,[536] which are rooted in prevailing interpretations of *sharaf*, *asabiyya* and *ird*. These combine with the strong perception that women should not be involved in dispute resolution processes, and that weaker tribes will face ramifications if they try to hold stronger tribes accountable in contravention of tribal mores.

Women often face considerable pressure from their own tribe to refrain from taking cases to court, or once cases are brought, to drop or reduce the charges. In some cases this pressure is wrought through threats of physical violence or social and economic isolation. One hypothesis posited here is that the *sharaf* — social standing, reputation or honour — of a family or tribe is diminished when disputes are taken to the *shari'a* or civil courts. Such dishonour increases if the complainant party is considered a relatively weak tribe. Another related hypothesis is that taking members of one's tribe to court weakens the tribe's *asabiyya* — sense of collective action and responsibility — which in turn diminishes sharaf.[537] The underlying logic that if someone does not fall in line with what is considered in the best interests of the tribe's reputation, then they are not adhering to the principle of *asabiyya*. Thus, they are not perceived as deserving of protection or support from the tribe. The best interests of the tribe seem to mean that internal matters are only to be addressed through tribal dispute resolution processes or perhaps not at all.

The third hypothesis posited relates to cases that deal with women's chastity, such as rape or sexual assault. Because these are serious violations of *ird* it is seen as bringing shame to the tribe to bring these to public forums, such as a court, where others would hear of the men's failure to protect or control the behaviour of the women in their family. Even if the victim's guardians would like to take such a case to court, they may be pressured to "drop charges to avoid social stigma."[538] Taking the matter to court is not currently seen as means of rectifying a rights violation and thus restoring honour. Instead, to avoid bringing further shame stemming from the violation, the Arab cultural code of *sutra* dictates another course of action, or more accurately, inaction.[539] Sutra means protecting against social disgrace or scandal. Further, if a tribe's reputation is weakened, then this affects the prospects of all the women belonging to it.[540] Accordingly, the female relatives of, for instance, a rape victim, are not likely to support her in going to court as this will have detrimental socio-economic impacts for them as well.

Having cases reach the civil or shari'a court system is no magic bullet as there is often a strong connection between tribal principles and processes and the way matters are dealt with at the state system. One way this is evident is that even when cases reach court, charges may be dropped or reduced because of tribal relationships between parties and court officials, police or government officials involved with the case. This reflects the continued expectation of "unquestioned solidarity" or *asabiyya* within a tribe.[541] On other occasions, tribal relationships may be used to prolong cases for an unreasonably long time, which effectively

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[534] The evidence that customary justice systems are dynamic and change in response to a variety of factors is now firm, in contrast to the former view that such systems were static and fixed.

[535] *Substantive Equality and Non-Discrimination in Jordan, Shadow Report submitted to CEDAW Committee at the 51st Session* (2011)

[536] See, for example the Concept Note for the ADRR-Legal Aid Conference "Women's Access to Justice: Prospects and Perspectives" held in Amman, Jordan on 8 March 2015. Available at http://ardd-jo.org/sites/default/files/resource-files/concept_note_en.pdf

[537] R Husseini, 'Jordan' in S Kelly and J Breslin (eds), *Women's Rights in the Middle East and North Africa: Progress Amid Resistance* (2010) 3.

[538] *Substantive Equality and Non-Discrimination in Jordan, Shadow Report submitted to CEDAW Committee at the 51st Session* (2011) 5.

[539] N Shalhoub-Kevorkian, 'Tribal Justice and Gender: Perspectives in the Palestinian Society' in H-J Albrecht, J-M Simon, H Rezaei, H Rohne and E Kiza (eds), *Conflicts and Conflict Resolution in Middle Eastern Societies - Between Traditiona nd Modernity* 18.

[540] Furr and Al-Serhan (n 8) 29.

[541] Muhammad (n 22) 23.

prevents rights recognition and remedies. Often, courts are said to actively delay cases to allow tribal dispute resolution processes to operate.[542] When cases do reach the point of being decided at court, outcomes often follow tribal lines. That is, tribal solidarity, or *asabiyya* trumps whether the perpetrator was right or wrong. This principle is expressed in another Bedouin saying: 'When one turns to his cousin, even if he's wrong, he's not'.[543]

Court outcomes may also follow tribal principles by reflecting, particularly in honour crimes cases, prevailing interpretations of *ird* and *sharaf*.[544] Some state laws reflect these tribal principles, for example the mitigating and exculpatory clauses in Penal Codes that deal with men who kill their female relatives they suspect of not being chaste.[545] Sentences can also be mitigated if the victim's family — usually the same family as the perpetrator — waives the charges,[546] or where the killing is carried out, or said to be carried out, by a minor, commonly the victim's younger brother.[547]

Likewise, legislation existing in several countries in WANA that allows a rapist to avoid charge if he marries the victim, mirrors prevailing interpretations of tribal principles. However, there are no clear and safe procedures for ensuring a victim's consent to this 'solution' for restoring their perceived loss of honour.[548] There are also examples where fathers refuse to marry their daughters to the accused but face considerable pressure from their tribe as well as government officials, judges (who sometimes suggest it as a solution of their own accord) and police. If neither marriage nor honour killing is carried out, this can potentially have a negative social impact on the women's family. This occurred in Badia, Jordan, in 1998 where a father, after refusing to kill his daughter, was alienated from the tribe.[549]

Conclusion

In many parts of the region, marginalised groups are falling between the cracks of the tribal and state justice systems. It appears that transition towards a secular rights system has meant that protections once available at the tribal level have been lost, but at the same time, these groups cannot readily access justice through courts. This state of limbo has resulted in an extreme unlikelihood that cases of rights violations will be reported, let alone receive just outcomes; they are essentially trapped in a cycle of violence and marginalisation. A key factor is chronic and systematic discrimination against women and minorities, as well as their exclusion from decision-making and debate. Patriarchal structures and inequality maintain a system where law, religion and culture operate in independent yet connected ways to maintain the status quo.

In terms of practical steps to improve access to justice, promoting state justice systems alone is not a comprehensive solution.[550] While legal rights awareness is slowly growing, there are still significant barriers preventing fair outcomes at courts. The danger of focusing on rights awareness without parallel improvement in the rights recognition and protection is that it raises expectations.[551] There is a growing body of research

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[542] Antoun (n 21) 450.

[543] Clinton (n 5) 72.

[544] For examples of literature relating to Jordan, see Ruane (n 52) 1523, K C Arnold, 'Are the Perpetrators of Honor Crimes Gettting Away with Murder? Article 340 of the Jordanian Penal Code Analyzed Under the Convention of the Elimination of All Forms of Discrimination Against Women' (2001) 16 *American University International Law Review* 1343, Husseini (n 60); F Faqir, 'Intrafamily Femicide in Defence of Honour: The Case of Jordan' (2001) 22(1) *Third World Quarterly* 65, , M M Hadidi, A Kulwicki and H Jahshan, 'A Review of 16 cases of Honour Killings in Jordan in 1995' (2001) 114(6) *International Journal of Legal Medicine* 357, , C Madek, 'Killing Dishonor: Effective Eradication of Honor Killing' (2005-2006) 29 *Suffolk Transnational Law Review* 53, A Tripathi and S Yadav, 'For the Sake of Honour: But Whose Honour? 'Honour Crimes' against Women' (2004) 5 *Asia-Pacific Journal on Human Rights and the Law* 63.

[545] Translations provided in K C Arnold, 'Are the Perpetrators of Honor Crimes Gettting Away with Murder? Article 340 of the Jordanian Penal Code Analyzed Under the Convention of the Elimination of All Forms of Discrimination Against Women' (2001) 16 *American University International Law Review* 1343, 1357. Hussain (n 63) 231.

[546] 'Honoring the Killers: Justice denied for 'honor' crimes in Jordan' (2004) 16(1(E)) *Human Rights Watch* 2.

[547] Zoepf (n 64) 163; Hussain (n 63) 235.

[548] *Substantive Equality and Non-Discrimination in Jordan, Shadow Report submitted to CEDAW Committee at the 51st Session* (2011) 5.

[549] Furr and Al-Serhan (n 8) 29-30.

[550] Chopra and Isser (n 1) 344.

[551] ibid 351.

that shows that a state-centred approach, when the state lacks the capacity to implement or secure rights, can be counterproductive.[552] Further empirical research on how marginalised groups might be empowered to effectively participate in dispute resolution is required, as well as on the types of outcomes received when they are party to a dispute. In particular, more must be learned about the circumstances under which marginalised groups do access the positive justice outcomes at the state level, even against tribal opposition.

Practitioners might also explore opportunities to improve access to justice at the tribal level. Tribal systems are dynamic; sometimes they adapt in ways that decrease access to justice, but on other occasions they respond to changes in society that are empowering. Geographical location and corruption are factors that make tribal dispute processes more attractive and increase access to justice vis-à-vis both state and *shari'a* courts. Another example relates to the tribal resolution of murder cases. It used to be a common tribal practice to offer an unmarried female of the perpetrator's tribe in marriage to the victim's tribe. This would occur as part of the *sulha* agreement, creating blood bonds and an incentive for compliance.[553] This practice has largely been replaced by *jalwa*.[554]

Finally, there needs to be more space for debate and discussion on the boundaries between law, religion and custom. The justice architecture is characterised by internal dynamism and contestation, and there remains a strong debate regarding what rules form part of custom. In 2000, on the issue of honour killing, one Jordanian tribal leader, Trad Fayez was reported as saying: "A women is like an olive tree. When its branch catches woodworm, it has to be chopped off so that the society stays clean and pure."[555] Another tribal leader (and MP) Noman Ghuweiri from Zarqa disagreed, saying "Only the rule of god should apply in such cases. These crimes do not occur within tribes. The Bedouin women are well respected and their rights are preserved and secured."[556] The Speaker of the Lower House at the time, Abdul Hadi Majali, insisted that honour killing was part of custom and reportedly stated: "We have our own customs and traditions and we deputies insist that if an individual surprises his female relative and kills her, he should benefit from a reduction [in penalty]."[557] Indeed, many of the customs that discriminate against women and leave them vulnerable to violence have no basis in law or religion. At the same time, it is clear that a major source of rights violation is an entrenched custom that is presented as being justified under or condoned by religious norms. Until the spaces occupied by religion, law and custom are clearly defined, the scope to enhance the protection of women will remain limited.

The principles and biases developed in tribal systems through millennia still influence which cases reach the state justice system, and how they are handled. This is possibly the biggest impediment to transitioning to a rule of law based system in the WANA region. Many of these tribal norms stand in stark opposition to basic principles of justice. So long as defence is issued on the basis of tribal solidarity as opposed to legality of conduct, there will be no rule of law. Likewise, so long as referring a matter to court is not seen as a means of rectifying a rights violation because it does not restore honour, there will be no genuine protection of rights. And insofar as men's honour is dependent on the sexual behaviour of his daughters and sisters, there will be no gender equality. Combatting tribalism, although it is not completely understood and even more rarely discussed, needs to be at the top of the agenda of any group committed to region's sustainable development, broader equality, and resilience.

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[552] J Gundel, *The Predicament of the Oday: The Role of Traditional Structures in Security, Rights, Law and Development in Somalia*, (2006) iii.
[553] Furr and Al-Serhan (n 8) 27-28. This practice was counter to *shari'a* law.
[554] ibid 31; see also F Stewart, 'Customary Law among the Bedouin of the Middle East and North Africa' in D Chatty (ed), *Nomadic Societies in the Middle East and North Africa: Entering the 21st Century* (2006) 272.
[555] Associated Press, published in Daily News "Jordan's conservative society tires to combat honour killings" 7/6/2000 available at http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=jordans-conservative-society-tries-to-combat-honor-killings-2000-07-06
[556] Husseini (n 60) 63.
[557] ibid 64.

An SDG on Justice to Achieve Peace

Dr Erica Harper

On 27 September 2015, a high-level plenary meeting of the General Assembly adopted 17 Sustainable Development Goals (SDGs) — the culmination of a 3-year process aimed at synthesising the environmental, social and economic dimensions of development.[558] Goal 16 focuses on justice: "to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels".

The inclusion of goal 16 is a remarkable achievement, not least, because justice is a broadly contentious issue. Member state opposition ranged from a justice goal compromising state sovereignty, to justice outcomes being immeasurable or only relevant to developing countries. States were also not blind to the challenges of implementation; forging consensus on minimum standards for an independent judiciary, accountability, transparency and access to justice was always going to be a difficult process.

However the inclusion of justice is a critically important step, if for no other reason than the impact this will have on development outcomes. For better or for worse, these global targets channel funding, and thus programming, in specific ways. When the Millennium Development Goals (MDGs) curiously failed to include a rule of law or justice element, the effect was to demote the importance of the justice sector in development strategy and to cut it off from mainstream funding mechanisms. Grassroots organisations, all the way up to UN agencies felt pressured to couch proposals in MDG-terms, and this manifested in a marked retreat from rule of law initiatives.

A justice goal forming part of the international development agenda, and commitment by individual states to integrate it into national development planning, are however, very different processes. The countries of the West Asia-North Africa (WANA) region now need to decide how justice will be prioritised and implemented. This will be difficult, because civic rights and freedoms, separation of powers and citizen empowerment are polarising issues. In this region, such challenges are even more intense — complicated by ongoing conflict, the legacy of the Arab uprisings, the emerging threat of violent extremism, and how these pressures spill over onto existing economic challenges. Against this backdrop, stick-over-carrot approaches have broadly been perceived as the most effective means of maintaining stability. Some policy experts support this, arguing that rapid changes to governance models are more likely to weaken stability than reinforce it. There is also some evidence that the people of the region are more concerned with existential issues such as jobs, economic growth and counter-terrorism than they are with rights, access to justice and legislative reform. According to civil society leader, Hadeel Abdel Aziz, this "chronic apathy towards social justice" is indicative of a crisis in confidence in the justice system that needs to be resolved before more substantive reforms can take effect.

An alternate way of looking at this situation is that the connection between social justice, stability and broader development is not sufficiently understood, both at the community and policy-making levels. There is a solid body of evidence that links justice, weak growth and conflict in mutually constituting ways. Injustice is a driver of conflict, whereas access to justice and a strong rule of law system play a role in preventing conflict and its recurrence. Likewise, weak progress in the fight against violent extremism has demonstrated that military solutions are far from complete answers, as they do not address the root causes

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[558] In 2000, world leaders committed to a new global partnership to reduce poverty set out in time-bound targets with a deadline of 2015: the eight Millennium Development Goals. A decade later, it was clear that 'poverty had not been made history', thus in June 2012, at the UN conference known as Rio+20, it was agreed that a set of Sustainable Development Goals would be developed to replace the Millennium Development Goals. The UN Secretary-General established a High-Level Panel of Eminent Persons to advise on this process. At the same time, the UN facilitated thematic consultations on 11 key issues and 50 national dialogues. In January 2013, the General Assembly established an Open Working Group to prepare a proposal. In July 2014, the Open Working Group concluded its report; a proposal comprising 17 goals and 169 targets.

of radicalisation. As policy analysts examine the deficits in this approach, the importance of bolstering human security, creating legitimate spaces within governance frameworks for all groups, and developing mechanisms to detect, counter and respond to violent extremism, has come to the fore. Such steps will only be possible in an environment where all governance organs fall under the rule of law, safeguards exist to prevent rights encroachment and basic freedoms are guaranteed.

As states begin to ponder these issues in the context of the new development agenda, an opportunity exists to spearhead a discussion about how justice aligns with national and regional development priorities. There was no roadmap annexed to the MDGs and there will likewise be no roadmap supplied for the SDGs. The region's stakeholders need to write this roadmap for themselves, and this will require a frank assessment of constraints, opportunities and the messy interconnections between goals.

In response, this chapter presents a case for why states in the WANA region should take goal 16 seriously. It analyses evidence on the relationship between justice policies and actions in three thematic areas: conflict resilience, countering the threat of violent extremism, and economic growth. The conclusion is that justice is not only an end in itself, but is critical to interrupting the conflict trap, permanently extinguishing the threat posed by radicalised groups and providing a platform for growth that is steady, inclusive and sustainable. It explains that justice outcomes require ongoing prioritisation and regular fine-tuning. Moreover, that the obligation to develop a strong and responsive justice sector transcends national boundaries.

Justice as a Tool of Conflict Resilience

Its staggering cost in terms of human loss and humanitarian assistance, the curious role of oil, and the rise of Daesh make protracted conflict in the Arab world a topic of global debate. Many connect the regional crisis to post-war colonial mapping — a move that ignored demographic composition, split tribal networks and carved out states with vast inequalities. However, while these borders provided fertile ground for instability, colonial mapping hardly offers a complete explanation. Rentier economics, skewed natural resource endowments, sectarian division and chronic state weakness, have all fed into the conflicts affecting the WANA region today. Current thinking on how such cycles are broken suggest that the role of justice — both in institutional terms and the implementation of the rule of law — is key. As the following sections elaborate, just as injustice is a known conflict driver, access to justice and functioning rule of law institutions seem to play a role in preventing conflicts from igniting and ensuring that they do not relapse.

The Relationship between Conflict, Growth and Poverty

The cost of conflict on a society's asset base and development is clearly established. On average, civil war reduces a country's growth by 2.3 percent per year; a typical seven-year war leaving a country 15 percent poorer than it would have been without conflict.[559] In lower middle-income states the impact can be more dramatic. Although the economic data is limited, a recent study by Chatham House found that during its four years of war, Syria's economy contracted by over 50 percent in real terms,[560] throwing the country back to its economic status in the 1970s. At the domestic level, such costs accrue in the forms of direct asset and infrastructure destruction, increased spending on health, policing and security, reduced productivity, and the opportunity costs that flow from governments diverting funds earmarked for socially useful forms of investment to cover military and other conflict-related expenditures.[561] Externally, disruption to trade

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[559] Research by Collier based on cross-country panel date in the last 50 years suggests that the cost of civil wars range from 1.6 percentage to 2.3 percentage of GDP per year of violence; P Collier, *The Bottom Billion: Why the Poorest Countries in the World are Failing and What Can be Done About It?* (2007) 27.

[560] S Heller. "The Cost of Civil War: Syria's Economy After Four Years of Conflict" Global Envision <http://www.globalenvision.org/2015/03/25/cost-civil-war-syria's-economy-after-four-years-conflict> accessed 6 July 2015; see also D Butter "Syria's Economy: Picking Up the Pieces." Chatham House 2.

[561] Military spending typically increases by 2.2 percent during civil war; a civil war reduces a country's average rating on the International Country Risk Guide by around 7.7 points (on a 100-point scale); World Bank, *World Development Report* (2011) 64-65.

and reduced investment are the main explanations for lost growth. These impacts last long after fighting subsides; recovering to original growth paths takes around 14 years of peace. The destruction, slowed growth and weakened civic cohesion that accompanies conflict manifests in increased poverty.[562] Countries experiencing conflict have, on average, a poverty rate 21 percentage points higher than those that are conflict-free; they also perform worse on a range of development indicators including primary school enrolment, infant mortality and nutrition.[563]

The key concern is that slow growth and poverty — the *consequences* of conflict — are also key *predictors* of conflict; conflict, reduced growth and poverty hence work in a mutually constituting cycle. This theory is supported by strong evidence on conflict recurrence; 39 percent of states emerging from conflict return to war in the first five years, and another 32 percent in the following five years.[564]

A final issue is that the costs and risk of conflict spill over onto neighbours. A country making development advances loses an estimated 0.7 percent of GDP every year for each neighbour in conflict.[565] Other spill-over costs include disease and refugees — nearly 75 percent of the world's refugees are hosted by neighbouring countries.[566] Syria, for example, once home to over a million Iraqi refugees, now has four million refugees of its own, hosted mostly by Lebanon, Turkey, Jordan and Iraq. There is also evidence of a phenomenon called conflict contagion, which holds that the presence of a civil war in a neighbouring country increases the probability of conflict outbreak domestically.[567] Recent research by UN-ESCWA suggests that the concept of neighbourhood may be more extensive than originally thought. They explain that 'neighbours' are not only geographical, but can also be countries that have cultural, ideological or economic connections. This is important for Arab states because of their shared history, the multiplicity and intensity of transmission channels, and the regional dimension of contemporary events. Examples include the Arab-Israeli and Iraq conflicts, proxy wars in Lebanon and Yemen, civil war in Syria and the shared burden of conflict-driven displacement.

Injustice as a Driver of Conflict

The suggestion of a regional conflict trap necessitates urgent inquiry into actions that can prevent both new conflicts and their recurrence. Justice, as elaborated below, is key in both scenarios. Unpacking the relationship between injustice and conflict, therefore, requires a deeper explanation of how conflicts evolve. Latest scholarship suggests that low incomes, economic inequality, poverty, limited opportunity and, in particular, poorly functioning and illegitimate institutions all weaken a country's 'immune system'. Conflict can ensue when a country with a weakened immune system meets an internal or external 'stress' that it is unable to respond to. Stresses can relate to security (invasion, cross-border conflict, terrorism), economics (rapid urbanisation, price shocks, natural disaster), and justice.[568] Justice stresses include:

- Poor access to justice, for example because courts are financially or geographically inaccessible, corrupt, biased, or the legal framework does not uphold basic rights. As shown in Table 1 below, WANA states — although performing moderately well in terms of enforcement — are less able to deliver civil and criminal justice and perform

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[562] The World Bank has established that "a country that experienced major violence over the period from 1981 to 2005 has a poverty rate 21 percentage points higher than a country that saw no violence" Saferworld (2013) *Addressing Conflict and Violence from 2015*; see further Figure 1.6, World Bank (n 4) 60-62.

[563] "People in fragile and conflict-affected states are more than twice as likely to be undernourished as those in other developing countries, more than three times as likely to be unable to send their children to school, twice as likely to see their children die before age five, and more than twice as likely to lack clean water." ibid 5. "Poverty reduction in countries affected by major violence is on average nearly a percentage point slower per year than in countries not affected by violence. After a few years of major violence, the contrast can be quite stark: countries affected by violence throughout the 1980s lagged in poverty reduction by 8 percentage points, and those that had experienced major violence throughout the 1980s and 1990s lagged by 16 percentage points". ibid 60.

[564] ibid 57; "90 percent of the last decade's civil wars occurred in countries that had already had a civil war in the last 30 years".

[565] The cost of a typical 7-year civil war on countries and their neighbours is US\$ 64 billion; Collier (n 2) 31.

[566] ibid 37.

[567] Y Chaitani and F Cantu, *Beyond governance and conflict: measuring the impact of the neighborhood effect in the Arab region*, Economic and Social Council for Western Asia (October 2014); see also World Bank (n 4) 65.

[568] World Bank (n 4) 7 (Table 1.1) and 9 (Figure F2.1).

poorly in terms of basic rights provision.

- Corruption, which fuels grievances by undermining institutional effectiveness and social norms,[569] as demonstrated during the Arab uprisings.

- Exclusion, in terms of political participation and opportunity based on ethnicity, religion or geographical location. Iraq and Syria are examples of where non-representative and exploitative governance created a widespread sense of injustice.

- Economic and social inequality[570] — a phenomenon that is particularly problematic in the WANA region. According to the World Bank, the wealthiest 20 percent of people earns nearly half of the region's total income.[571] Moreover, inequality is closely connected to the notion of human dignity, and related concepts of class and power relations.

- Exploitative government, which may use oppression, rights abuses and authoritarian approaches to maintain order.[572]

Table 1: Drawn from the World Justice Project, Rule of Law Index (2015)

Country	Civil justice		Criminal justice		Enforce-ment		Funda-mental rights		Absence of corrup-tion		Con-straints on Govt		Open Gov-ernment	
	Rate	Rank	Rate	Rank	Rate	Rank	Rate	Rank	Rate	Rank	Rate	Rank	Rate	Rank
Jordan	0.62	31	0.55	34	0.51	34	0.52	68	0.59	32	0.49	69	0.46	76
Iran	0.56	40	0.39	60	0.54	35	0.22	102	0.42	64	0.37	94	0.35	99
Lebanon	0.45	78	.39	62	0.41	83	0.55	57	0.37	76	0.56	59	0.45	81
Morocco	0.51	54	0.33	86	0.53	39	0.45	86	0.49	48	0.57	49	0.51	60
Tunisia	0.52	49	0.49	41	0.52	43	0.54	62	0.4	44	0.62	34	0.51	59
UAE	0.63	29	0.77	9	0.68	21	0.5	75	0.82	13	0.58	45	0.48	69
Egypt	0.39	93	0.43	55	0.39	93	0.32	98	0.47	52	0.39	91	0.42	91

Justice as a Tool of Resilience

If prioritised, justice can be a key tool to lift countries out of conflict traps. A central conclusion of the World Bank Development Report (2011) was that following a peace agreement, strengthening institutions and governance to provide security, justice and jobs is crucial to breaking a cycle of violence.[573] Institutional dysfunction is also very important in explaining conflict recidivism. Peace processes are inherently fragile, and can rarely be sustained in the absence of legitimate state and society institutions that can absorb the

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[569] A 2014, Carnegie report highlights that when governments systematically behave in criminal or unjust ways, the "very fabric of society begins to fray. High-level organized corruption underestimates the agency of ordinary people – their perceptions of corruption and the increasing tendency of populations to lash out violently against governing systems they can no longer tolerate"; S Chaynes *Thieves of State: Why Corruption Threatens Global Security*, W. Norton and Company (2014) 184.

[570] "… analysis across 55 countries for 1986–2003 reveals a significant rise in the probability of conflict in countries with severe horizontal inequalities, both economic and social". World Bank (n 4) 82.

[571] M Ncube and J Anyanwu 'Inequality And Arab Spring Revolutions in North Africa and the Middle East' African Development Bank, Volume 3, Issue 7, July 2012, 7.

[572] World Bank (n 4) 8, 82-83.

[573] ibid 2.

shocks that accompany the reforms required during a fledgling peace. A priority action is therefore the development of institutions — including justice institutions — that can deliver necessary services and generate a level of trust and confidence in the state. As explored below, for justice institutions, such actions include restoring law and order, providing access to justice and eliminating corruption.

First, a secure environment must be understood as a *sine qua non* for post-conflict reconstruction. In the absence of security, justice sector institutions cannot operate, political organs will remain dormant and measures to jump-start the economy cannot be set in place.[574] Further, until perceptions of safety are restored civil society cannot begin to rehabilitate: militia groups will unlikely demobilise, parents will resist sending their children to school, farmers will delay planting crops, shops will remain closed and refugees will not repatriate. Most importantly, insecurity prevents humanitarian aid from flowing and reconstruction projects from commencing.[575] In both Afghanistan and Iraq, threats to staff and cargo led to a scaling back in post- conflict aid activity in the months following the ceasefires. A security vacuum also spawns violence in the form of everyday criminality (opportunistic assault and lootings as well as revenge attacks) and organised crime (either in response to a non- functioning economy or as a means of perpetuating the conflict).

An effective justice system staffed by judges and police and an operational detention facility is therefore imperative for curbing criminality, reigning in spoilers and restoring confidence.[576] As demonstrated in Iraq, the alternate scenario is debilitating with long-term implications. Here, US soldiers were largely unable to prevent looters from demolishing government buildings, hospitals, schools, museums, private businesses and residences. This made the reconstruction process longer and more complicated, and undermined popular confidence.[577] Quick justice 'wins', by contrast, seem to set the scene for a progressive return to order and build momentum and confidence. Examples include the resumption of regulatory services such as business or vehicle licensing, police dealing swiftly with crime in accordance with due process; the release of detainees held without charge, for political reasons or for prolonged periods; and the repeal of laws that abrogate rights or facilitate discrimination.[578]

Second, justice institutions must deliver equal access to justice based on the rule of law. In the years leading up to conflict, justice systems may have lacked independence, been influenced by powerful factional elements, or had high levels of corruption.[579] In pre-occupation Iraq, the Ba'ath party had removed the judiciary as a distinct branch of government by incorporating the civilian courts into the military court system.[580] Similarly, prior to the Syria civil war, the judiciary was engaged in widespread corruption and lacked substantive independence from the executive.[581] In post-conflict scenarios, it is important that such trends are reversed. Justice institutions should be inclusive in terms of ethnic and political balance, appointments need to be merit-based and take place in a transparent manner, and steps may be required to remove actors who were involved in the perpetration of serious crimes. Another priority will be capacity building. Justice sector actors often lack sufficient education and training or, may be well trained, but in systems that are discriminatory or do not respect basic rule of law values.[582]

Broadly speaking, the WANA region has high institutional capacity, but scores poorly on accountability,

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[574] J Stromseth, D Wippman and R Brooks Can Might Make Rights? Building the Rule of Law After Military Interventions (Cambridge UP 2006) 134.

[575] ibid 141-143.

[576] S Chesterman *You, The People: The United Nations, Transitional Administration, and State Building* (Oxford U Pres 2004) 181.

[577] Stromseth (n 17) 146.

[578] ibid 53.

[579] See geenrally C Call (ed) *Constructing Justice and Security After War* (US Institute of Peace 2007).

[580] Establishing the Rule of Law in Iraq, the United States Institute of Peace, April 2003, available at http://www.usip.org/sites/default/files/resources/sr104.pdf.

[581] A Al-Sheikh and A Hamadah, Corruption in Syria: Causes, Effects, and Anti-Corruption Strategies, Syrian Economic Forum, available at <http://www.syrianef.org/En/wp-content/uploads/2014/07/Corruption-in-Syria.pdf.>

[582] A key example is post-invasion Iraq where de-Ba'athification drained the government of its qualified and experienced employees. See E Stover, M Sissons, P Pham and P Vinck, *Justice on hold: accountability and social reconstruction in Iraq*, International Review of the Red Cross, Volume 90 Number 869, 14, March 2008, available at <https://www.icrc.org/eng/assets/files/other/irrc-869_stover.pdf>

which is a key vulnerability point for post-conflict peace maintenance.[583] A third area where the justice system plays a key role is thus in tackling corruption. Effective justice institutions constrain arbitrary decision-making, promote effective service delivery, and circumvent the elite capture of public resources. They do this by erecting strong safeguards to protect against the misuse of public funds, prevent interference in the administration of justice and ensure a balance of power between the police, judiciary and military. Examples include legislation that secures the judiciary's independence, criminalises corruption and bribery, and promotes budget transparency and procurement measures. Such steps must be complemented by complaints and disciplinary procedures, oversight bodies such as judicial councils and ombudspersons, and whistle-blower protections. The sequencing of such activities is very important. Eliminating corruption and ensuring adequate complaints procedures, for example, should come before other aspects of institutional strengthening.[584] There could be no clearer example than post-invasion Iraq where lack of judicial independence, coupled with conflicts of interest, resulted in flagrant human rights violations, a fuelling of internal security concerns and a messy corruption scandal.[585]

In sum, injustice as a driver of conflict may have particular relevance in the WANA region where authoritarian governance structures have long been the norm, inequality is high, and many have difficulty accessing affordable and equitable dispute resolution fora. Its history of violent conflict seems to correspond to a history of social injustice, at a cost that vastly outweighs the price of providing well- functioning rule of law institutions, making an investment in justice a strategic one.

Justice and Countering the Threat of Violent Extremism

The Arab uprisings demonstrated the people of the region's appetite for justice, opportunity and participatory governance. It was widely anticipated that these forces would lead to the decline of extremist factions such as al-Qaeda.[586] In fact, the opposite has occurred. These events pushed states to the brink of collapse, exposing the fragility of institutions and tenuous national unity and identity. In Egypt, Iraq and Syria, a shrinking political space for Islamists, broad disenfranchisement and breakdowns in governance aligned to create ideal conditions for the growth of extremism. This section examines these forces, possible entry points for countering extremism, and the role of the justice sector in addressing the drivers of radicalisation, and the architecture required to detect and arraign responsible actors.

Responding to the Emerging Threat of Violent Extremism

Current thinking is that traditional security measures will not be sufficient to respond to violent extremism. There is strong evidence that securing a military victory against Daesh is unlikely. The group is not an inexperienced adversary; it is a militarily savvy organisation that includes ex-Iraqi army within its ranks. This somewhat explains why the US-led military coalition has been unable to prevent the group's expansion and their taking of strategic territory. Arming and training moderate rebels has had similar efficacy. Key difficulties include determining which rebel groups to empower, and guarding against such groups subsequently joining ranks with more extreme factions. There is also no guarantee that weapons stay in rebel hands, as demonstrated in a recent battle between Jabhat Al Nusra and Hazm which ended with the former assuming control of the anti-tank Tow missiles provided to Hazm by the US.[587]

A military victory might even be a strategic mistake. Expulsion of Daesh will not address the deep grievances that gave rise to the organisation's strength. Moreover, acts of military prowess risk re-entrenching or

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[583] World Bank (n 4) 84-85.
[584] Stromseth (n 17) 235-236.
[585] Z Al Ali. *The Struggle For Iraq's Future*. Yale University Press (2014) 182.
[586] See also Abu Rumman, M, 'Is it "Al Qaeda Spring?" in *The Rise of Religious Radicalism in the Arab World: Significance, Implications and Counter-Strategies* (2015), 9.
[587] I Black, 'US Syria policy in tatters after favoured 'moderate' rebels disband', *The Guardian (Online)* 2 March 2015 http://www.theguardian.com/world/2015/mar/02/us-syria-policy-tatters-moderate-rebels-disband accessed 16 July 2015.

creating new grievances. Some analysts speculate that broadcasting the execution of international hostages was intended to bait the West into intervention, which they anticipated would bode well for them in terms of recruitment.[588]

These challenges raise the question of what types of responses might have greater effectiveness. It is clear that the drivers of extremism need to be eliminated and that the deficits such drivers evolved to fill be addressed. One framework for developing such entry points is an approach dubbed Countering Violent Extremism (CVE). CVE advocates tailoring responses around a more comprehensive understanding of the complexity of circumstances and processes that lead to radicalisation. It draws on a wide range of disciplines, including social and economic development, conflict prevention, peace-building, security sector reform and diplomacy. However, even if CVE approaches are successful, responding to key gaps will neither be fast nor simple. New tools and approaches need to be crafted to reduce the risk of extremism as a new socio-political architecture develops. As discussed below, justice, the prevention of injustice and legal frameworks to mobilise counter-actions, will play a key role in securing successful outcomes.

Injustice as a Driver of Radicalisation

Ideology and socio-economic disenfranchisement are presented as two main groups of drivers for radicalisation.[589] Of course, far from all political Islamists, those in poverty or those in situations of political repression, join extremist groups. A combination of negative social, economic, political and ideological factors are usually in play.[590] In the WANA region, it has particularly been the frustration created by the gap between expectations and opportunities; for example educated male youths having few prospects for social or economic advancement.[591] But while core drivers are generally ideological and economic, the tipping points are often justice-related. They can include a belief that the legal system does not accord with widely held conceptions of justice, deep corruption, inequality, or the absence of a platform to air grievances and have them resolved in a fair manner.[592]

Extremist group leaders often play active roles by espousing narratives of injustice or legal exclusion. As stated by Maajid Nawaz, a former Hizb ut-Tahrir member: "I had always been taught — and had passionately believed — that the presence of Islamism meant justice, and the absence of it created injustice."[593] Accord to the World Bank, when the motives for individuals to join extremist groups are connected to larger causes, leaders often need to re-link these narratives to local claims of injustice to garner support.[594] The Taliban gained a following in Pakistan's Swat valley, for example, in part by building on dissatisfaction with weakness in local law enforcement and justice institutions.[595] How Daesh recruiters exploited Sunni feelings of disenfranchisement and excessive treatment in post-Saddam Iraq is another illustration.

One modality for countering injustice drivers is to generate alternate narratives that refute extremist propaganda and violent interpretations of Islam, as well as provide individuals with a framework within which to decouple such narratives against ones that are compatible with non-extremism. Such messaging must tap into the complex and diverse thinking of recruits and the allure of the Daesh counter-culture. Daesh in Syria is mainly comprised of foreign fighters, most of whom joined based on variations on the themes outlined above: frustration, relative deprivation, isolation and lack of opportunity. These groups are attracted to what Daesh offers in terms of community, respectability, dignity and excitement, and messaging

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[588] See also M Hamid and L Farrall, *The Arabs at War in Afghanistan* (2015) 22-23.
[589] Drivers generally fall into two camps: those that believe that ideology, culture and religion are the main drivers and those believing socio-economic factors, including lack of education, unemployment and poverty.
[590] "Some scholars posit a relationship between poverty and terrorism, but many others find no direct evidence that poverty (or a lack of education) leads to terrorism. On the contrary, some research finds that perpetrators of terrorist attacks are more likely to be well-off, with advanced education". World Bank (n 4) 83.
[591] This explains, at least to some extent, why profiles of Arabs joining Daesh are that they are employed and educated and why Tunisia, which has a stronger middle class and education system than most of the Middle East, has disproportionately high numbers joining Daesh.
[592] S Chaynes (2014) *Corruption: The Priority Intelligence Requirement*, Carnegie Report; see also World Bank (n 4) 83 (Figure 2.1).
[593] M Nawaz, *Radical* (2012), 290.
[594] World Bank (n 4) 78.
[595] ibid 83.

must respond to this. Some grass-roots work, such as the #notinmyname campaign and the Abdullah- x videos,[596] has already been done in this regard, mainly focused on factual interpretations of Islamic law.

Another modality involves investing in the development of representative and inclusive institutions including in governance, law enforcement and dispute resolution. In the case of Daesh, it is unlikely that the group will be defeated until Sunnis are provided with a legitimate and viable option to become part of the Iraqi socio-political fabric. Integral to this is a state legal framework where Sunni rights and interests are protected.

Rule of Law Institutions as a Tool to Protect against Extremism

Extremist groups are better able to mobilise, recruit followers and gain strength in the context of weak, insular or dysfunctional rule of law and security institutions. Particularly where states lack reliable law enforcement and an operational judicial system, there is a greater incidence of lawlessness and organised crime. The associated instability provides a fertile recruiting ground and organisational platform for terrorism.[597] Moreover, in such environments, public assets and resources can be seized and high-risk groups become vulnerable to recruitment, kidnapping and exploitation.

Justice sector actors play important roles in preventing, detecting and addressing violent extremism. The justice framework must provide a legal basis for the prevention of extremist acts and facilitate effective cooperation between investigators, prosecutors, judges, lawyers, police, corrections officers and relevant government officials. Communication between the different arms of the justice sector chain that is timely and informed is very important in this regard. Rule of law actors — particularly police — are also key links between the justice sector and communities.

Where police are trusted, reliable and fulfil the role of duty-bearers, they are more likely to be privy to relevant information. By contrast, where there is high and longstanding antipathy between law enforcement and the population, as in the case of Iraq, Afghanistan and Kenya, such information channels do not exist or can be manipulated to work in counter-productive ways. Actors who do not uphold rule of law standards can also drive extremism; negative experiences erode the legitimacy of justice institutions and generate grievances that can contribute to radicalisation. Examples include police brutality, detention without charge, the targeting of minority groups, and punitive sentencing. While the most extreme example relates to US military actions in Abu Ghraib prison, Al Shabaab has used footage of police harassing Kenyan Muslims, and (non-verified) images of arbitrary arrests, detentions and extra-judicial killings of Kenyan Muslims and Somalis in their recruitment videos and propaganda efforts. Likewise, Daesh has attempted to recruit American Muslims dissatisfied at police brutality and racial discrimination in the context of recent Baltimore riots.

> What I have seen on Al-Jazirah [sic]... of people in Abu Ghurayb [prison] torturing people, including women... It made me angry. Americans cross 20,000 kilometres to kill our brethren here.[598]

At the enforcement end of the spectrum, countries must have rule of law-based criminal justice systems to prosecute persons involved in illegal activities associated with radicalism. The legal framework must clearly define acts and behaviours that are legal under freedom of expression and association, and those that are not. The law must also be sufficiently extensive, covering not only those that perpetrate criminal acts but also actions that support, plan, facilitate, or finance such acts, command responsibility, and the provision of safe havens. Finally, legislation must provide a legal basis for extradition and cooperation between law enforcement agencies. Prosecutors, public defenders and judges should be specially trained, and mechanisms set in place to protect the privacy and safety of victims, informants and families of defendants.

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[596] See e.g. <http://freespeechdebate.com/en/2014/03/how-to-make-counter-speech-sexy-on-combating-online-hate-speech-and-extremism/>.
[597] Stromseth (n 17) 60.
[598] M Bin Hassan Rabih, cited in A Hashim, *Insurgency and counter-insurgency in Iraq* (2006) 144.

The Linkages between Radicalism and Organised Crime

The operation and actions of radicalised groups are almost exclusively financed by criminal activities, including the seizure of state resources (extractive industry, oil fields, agricultural production), extortion (taxes levies, ransom), money laundering, people trafficking, and illicit trade (drugs, light arms, weaponry). Radicalised groups not only feed off the criminal economy, they also accelerate its growth. Radical groups develop tools that depend on criminal activity, and use ideological arguments to conceal the criminal and profit-driven nature of their activities. Economic pressures in the region are likely to amplify this threat potential, giving rise to both increased crime and the growth of radical networks.

The integrated and growing nature of this phenomenon is becoming more widely recognised. Modern criminal networks exhibit expanding linkages between organised criminal and radicalised groups, both for the purposes of funds mobilisation and the facilitation of terrorist acts. Such networks make use of a transnational virtual criminal underground within which actors with different skills and experience come together on a project basis. Less reliant on established criminal networks (which can be more easily targeted by law enforcement), these groups can communicate and plan with greater ease, and in a relatively secure environment, making it particularly attractive to radical entities.

This integration of and inter-reliance between organised crime and extremists has flourished principally in environments with vulnerable financial and commercial networks. Restricting and eliminating such activity requires a two-pronged approach, both of which rely on justice actors and institutions. First, domestic surveillance, monitoring and investigatory capacity needs to be in place. This includes an adequate legislative framework, mechanisms in support of anti-corruption, border and customs management (including container control) and a framework to investigate and prosecute organised crime. Second, front line law enforcement needs to be complemented by capacity at the transnational level to monitor trends, conduct surveillance, build and lend technical capacity, and collect and share criminal intelligence. Legal actions to prevent groups from accessing international financial and trade systems are also imperative, and again this requires cross-border legal cooperation.

Safeguards, Checks and Balances to Obfuscate New Drivers of Extremism

Preventing and bringing to justice the planners and perpetrators of extremist acts requires that state authorities possess the necessary powers to conduct surveillance, gather evidence and detain suspects. Such needs must be balanced against the importance of individual rights, due process and investigations taking place within a clearly defined rule of law framework. In theory, such balancing is widely accepted; in practice, however, the line between preventing extremist acts and abrogating suspects' rights can be unclear and breeches do take place, particularly in times of heightened threat. Examples include:

- intelligence and surveillance laws that abrogate rights to privacy,
- laws that impact freedom of speech,
- restrictions on political organisations that compromise rights of association,
- protocols, such as 'stop and search' that adversely impact certain ethnic groups,
- retrospective (ex post facto) legislation,
- laws that permit indefinite detention or detention with limited rights to judicial review if there is a suspicion of terrorism.

At the extreme, without legal checks, safeguards and oversight, actions that abrogate both national and international law can take place. The rights violations against detainees in Abu Ghraib prison in Iraq, Afghanistan and Guantanamo Bay as part of the US practice of extraordinary rendition, are widely known. Other examples include Tunisia's Anti-Terrorism Act (2003), which was used to try thousands of people during the rule of Zine El-Abidine Ben Ali in violation of basic defence rights; Egyptian judges sentencing hundreds of people — mostly Muslim Brotherhood members — to death in one hearing; and the recently-ousted Australian Prime Minister's proposal to use ministerial discretion to cancel the citizenship of dual nationals suspected of terrorism activities without trial or conviction. In each of these cases, checks on

executive and administrative power provided by the rule of law and judicial review, were critical, both to preventing abuses in the first instance (as in the Australian example) and exposing illegal practices (as in the US example). In short, policy-makers must craft laws that are flexible enough to be effective, but comprise sufficient controls to protect and safeguard against the risk of abuse. At minimum, all sanctioned actions and techniques must have a legal basis, procedures for review, and not affect basic legal principles such as the presumption of innocence, protection against self-incrimination, and the rights to due process, judicial review and a defence. Finally, accountability mechanisms to monitor law enforcement officials, particularly with respect to the production of admissible evidence, must be in place.

In summary, salafist-jihadism has taken on an enigma-like quality. Their tactics, aim and the ensuing 'rules of the game' are not well understood and this somewhat explains the weak effectiveness of response efforts to date. There is an emerging consensus that addressing the drivers of radicalisation and extremism is more likely to be effective than exercises of military might. Such drivers include denials of social justice, widespread corruption and unequal opportunity, opening up a clear role for rule of law actors and actions. Preventing manifestations of violent extremism also requires new tools and methodologies. These include mechanisms to facilitate effective cooperation between all actors within the justice chain, and rule of law- based systems to identify and prosecute persons involved in acts associated with radicalism. Finally, a legitimate space for moderate political Islam needs to be created. This will only be possible in an environment where all governance organs fall under the rule of law, safeguards exist to prevent rights encroachment, and basic freedoms are guaranteed. In this context, SDG 16 translates into a strengthened justice sector to support good governance, a legal architecture to deal with transnational and organised crime, and an inclusive society that provides a political space for peaceful Islamism.

Justice and Sustainable Economic Growth

The economies of the WANA region have become synonymous with deficits such as unemployment, rentierism and stunted private sector growth. Even the region's oil- producing economies, which enjoy some of the highest GDP per capita rates in the world, have had difficulty directing their massive windfalls to diversify their markets, raise living standards and address food and water insecurity. The region is also characterised by high inequality: in 2013, Qatar's GDP per capita stood at US$ 93,714 compared to Yemen's meagre US$ 1,473. Before examining what policies might be raised to facilitate more sustainable economic development, and the role of law and legal institutions in this process, the profiles of WANA economies require more thorough examination.

The Economies of the WANA Region

The first group is the resource-poor and labour-abundant economies of Egypt, Jordan, Lebanon, Morocco, Tunisia, Djibouti, Mauritania and Palestine. These countries have weak natural resource bases and hence rely on oil, gas, and in some cases food and water, imports. Despite their large native workforces, such economies are mainly classified as low to middle-income. Egypt, Jordan and Lebanon have GDPs per capita of US$ 3314, US$ 5214, and US$ 9928 respectively;[599] and the percentage of the population living below the poverty at some point during the year sits at 26 percent, 14 percent, and 28 percent respectively.[600] Weak economic activity means that there are insufficient opportunities to keep all of those able and willing to work employed. One consequence of a young, employable population with a job market that is unable to absorb them is a net outflow of skilled labour, mainly to the West and oil-producing Gulf countries. According to a 2014 UN Development Programme (UNDP) report, Arab 'brain-drain' is worsening, from an estimated 10-15 percent loss in workforce in 2012, to 20-25 percent today.[601]

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[599] 2013 figures.
[600] The World Bank, *World Development Indicators* < http://data.worldbank.org/country/mauritania> at 6 August 2015.
[601] R James, 'Arab 'brain drain' accelerates after Arab Spring: UN', *Middle East Eye*, 8 May 2015.

The second group is the resource-rich, labour importing economies of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE). As at 2012, the Gulf Cooperation Countries (GCC) countries accounted for around 60 percent of all economic activity generated in the Middle East and managed sovereign wealth funds totalling over US$ 1.7 trillion. While these countries wield significant economic and political leverage in the region, they have small native populations and employ large numbers of expatriate workers. Ninety percent of the UAE's workforce, for example, comprises migrant workers, both in the form of low and high-skilled labour.[602] Although total unemployment is low, native labour force participation is limited, and the employment of young educated natives is extremely low. [603]

The principal economic challenge for these countries is resource over-dependency, the so-called 'oil curse'. Reliance on volatile hydrocarbon markets causes local currency appreciations, making other exports uncompetitive (as the money earned is worth less in terms of local currency).[604] This retards the growth of labour intensive exports that otherwise have the potential to grow rapidly and further technological progress.[605] Despite such foreboding, unprecedented current account surpluses have made the GCC economies the world's largest net supplier of financial resources. Gulf wealth, flowing from both governments and private businesses, has been invested in development projects both at home and abroad, including Jordan's revamping of the Queen Alia International Airport and the US$ 90 billion GCC education program.[606] This has demonstrated that oil rents can, at times and under certain conditions, generate productive economic activity.

Over the long term, it is unlikely that oil benefits can continue to outweigh the costs. Rentierism is broadly incompatible with political resilience and resource insecurity will ultimately become an existential threat. Moreover, it is impossible to ignore that oil revenues have not translated into human development gains. Despite enjoying OECD levels (or higher) of GDP per capita, the GCC lag behind on important development indicators.[607] This abnormal discrepancy between material wellbeing and human development exposes some of the broader limitations of the rentier welfare state model. Eventually therefore, investments will need to move away from retail, real estate and services and into sectors that generate value-added economi activity, a more inclusive and resilient form of governance will need to be adopted, and a local, high productivity labour force will need to grow.

The final group is the resource-rich, labor abundant economies of Algeria, Iraq, Syria, and Yemen. These countries, despite their fossil fuel reserves and large native populations, serve as harsh reminders of how the region's massive economic potential has fallen victim to conflict. Syrian economic performance in the decade before 2011 was considered impressive; between 2000-2010 real growth averaged nearly 4.5 percent, inflation was running at less than 5 percent and positive external balances allowed an accumulation of international reserves to US$ 18.2 billion.[608] Today, it is estimated that Syria's economy has been cut in half.[609] Another striking example is Yemen; when conflict engulfed the region in 2011, the economy slipped into recession with GDP contracting by 12.7 percent.[610] Likewise in Iraq, breakdowns in governance, civil unrest and the rise of Daesh shrank the economy by 2.7 percent in 2014 alone.[611] Even Algeria, the region's oft-forgotten oil giant, has been unable to escape the wrath of regional instability to implement necessary structural reforms. These countries will all require significant foreign investment to place them on a more positive trajectory. For such investment to take place and be effective, however, stability must be re-established, deficits in opportunity addressed, and governance strengthened.

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[602] F Malit and A Youha, 'Labor Migration in the United Arab Emirates: Challenges and Responses', *Migration Policy* (2013).

[603] S Salacanin, 'GCC Sovereign Wealth Funds Manage over US$ 1.7 trillion', *Qatar BQ Magazine* (Doha), December 9th, 2014; see also A Sullivan, M Rey, and J Mendez, 'Opportunities and Challenges in the MENA Region', *OECD (2014)*.

[604] Collier (n 2) 39-40.

[605] ibid 121, 162 ; see also M Hvidt 'Economic Diversification in GCC Countries: Past Record and Future Trends', *Kuwait Program on Development, Governance, and Globalization in the Gulf States, London School of Economics* (2013).

[606] 'GCC to spend $150 billion on education reform,' *AlBawaba News*, 14 July 2014.

[607] For example, while Qatar ranks second in terms of global GDP per capita, it still ranks 36th on the Human Development Index (UNDP 2013).

[608] M Khan and S Milbert, 'Syria's economic glory days are gone', *The Atlantic Council*, April 3 2014. <http://www.atlanticcouncil.org/blogs/menasource/syria-s-economic-glory-days-are-gone> accessed 8 August 2015.

[609] M Lobel, 'Syria's economy cut in half by conflict', *BBC News*, 23 June 2015.

[610] The World Bank, 'Country Overview: Yemen' <http://www.worldbank.org/en/country/yemen/overview> at 11 August 2015.

[611] 'Iraq's economy: an empty chest', *The Economist*, 21 March 2015.

The Law-Growth Relationship

The economics literature suggests that there is no single route to economic development.[612] These paths are contextual and complex, with drivers that interact in ways that even development experts do not fully understand. Some things, however, are clear. Geography, size, and the presence or absence of conflict, are each important to economic development. But the preponderance of evidence is that the principal driver of growth is functional institutions.[613] This is important in the WANA region, where sectorial weakness is less the exception than the rule.

If institutions matter, the next question is the extent to which such institutions are of a legal character? Kenneth Dam's examination of how high income countries have developed suggests that while rule of law institutions are not essential for economic activity, they are relevant to growth. He explains that in seventeenth century England, the emergence of the rule of law facilitated unprecedented per capita GDP growth by protecting private property rights, introducing executive constraints and facilitating the enforcement of contracts.[614] To a large extent, these principles remain true today. Rules to protect, and legal institutions to enforce, private property rights are fundamental to growth. Without safeguards against encroachment, rights-holders are less inclined to invest in wealth-creating property and property is used in unproductive ways.[615] This is particularly relevant in countries like Iran, Syria, and Libya where land is shrouded in legal uncertainty.

The Property Rights Index (PRI) measures the degree to which laws protect private property rights and the degree to which the government enforces those laws (a score closer to 100 being most desirable).[616] The index also assesses the likelihood that private property will be expropriated and analyses the independence of the judiciary, the existence of corruption within the judiciary, and the ability of individuals and businesses to enforce contracts. The aforementioned group of countries (Iran, Syria, and Libya) rate a score of 10 on to the PRI, and even countries that are more politically stable, like Tunisia, Egypt, and Lebanon, score between 20-40. Weak property rights create economic drag because such property cannot be mortgaged, which limits both investment (and hence land productivity) and the potential for land users to become land owners. The same applies in urban areas where low ownership potential limits business investment.[617] But as Dam points out, the potential of property rights is not only found in titling laws; functioning registries, land use regulations and rules establishing access to credit are all necessary features in the path to growth.[618]

Likewise, a strong corporate sector and financial markets are key to large-scale economic activity. Financial development tends to spur growth and reduce inequality, which has positive knock-on effects for growth and poverty reduction. But as in the case of property rights, trust is not sufficient to facilitate financial transactions. Laws and enforcement are needed to protect minority shareholders from predatory actions and investors in the event of liquidation.[619] Law thus plays a key role in financial sector development, particularly credit and bankruptcy laws, judicial performance and enforcement efficiency.[620] This is illustrated in countries such as Libya, Iraq, and Yemen and Syria, where debt recovery is problematic and lengthy, even before recent conflicts.[621] As a result, credit is scarce and rates are high, encouraging overcollateralisation and weakening investment.[622]

So is it the rules or legal institutions that matter to development? It is actually both; legal rules that can

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[612] K Dam (citing Rodrick) The Law-Growth Nexus: The Rule of Law and Economic Development, Brookings Institution Press (2006), 3.
[613] ibid 1, 14-18, 56-61, 223-224.
[614] ibid 71-72, 85.
[615] ibid 72-93, 135.
[616] *Middle East Property Rights Index*, Global Property Rights (2015) <www.globalpropertyguide.com/Middle-East/property-rights-index> accessed 7 September 2015.
[617] Dam (n 55) 136-138.
[618] ibid 138-157.
[619] ibid 159-162.
[620] ibid 230.
[621] *Doing Business 2015 Fact Sheet: Middle East and North Africa*, World Bank Group (2015) <http://www.doingbusiness.org/~/media/GIAWB/Doing%20Business/Documents/Fact-Sheets/DB15/DB15MENAFactSheetEnglish.pdf> accessed 7 September 2015.
[622] Dam (n 55) 203.

be enforced by legal institutions seem to matter the most.[623] Rules alone tend to be insufficient when institutions are dysfunctional or enforcement is problematic, and at the same time, enforcement cannot take place outside of a clear and efficient legal framework. Judicial performance, however, is critical for business development, where it is imperative that disputes can be adjudicated and enforced easily, fairly and quickly, at reasonable cost. Likewise, judicial independence is imperative to protect economic stakeholders from powerful interests and predatory state actions. There is even some empirical evidence linking high income countries and judicial efficiency, judicial independence to growth, and better courts to higher investment, more developed credit markets and the growth of diverse businesses.

Conversely, weak, slow and unreliable courts discourage competition and innovation and thus limit economic expansion because long-term, complex contracts (which are essential for generating infrastructure) are less attractive.[624]

The Path ahead: Rule of Law as a Driver of Growth

In summary, the evidence supports the importance of legal institutions to development; in Dam's words, growth and the rule of law seem to go hand in hand, a lot of the time.[625] This should not imply that law reform or the strengthening of legal institutions is a guaranteed growth stimulant. First, the rule of law is not a clean manifestation of legislation and institutions alone; it is a composite of broader society, including its history, customs, endowments and social norms.[626] Second, a relationship between growth and institutions does not establish causality. Some scholars opine that it is not that institutions create growth, but that growth and wealth create the conditions required to develop strong institutions. Roderick cites the example of China — which has experienced massive growth in the absence of strong rule of law institutions — as an example in this regard.[627] Another theory is that that economic growth leads to institutional strengthening where strong leadership is in play.[628] Most likely, legal institutions and growth, plus a number of other factors, are operating in complex but mutually constituting ways, and one of the offshoots is rising incomes.

What does this mean for WANA states in terms of their potential and best trajectories for growth? It is clear that strengthening rule of law institutions will be important to achieving more consistent levels of economic development, combating poverty and reducing inequality — for a host of reasons, not solely connected to economic drivers. Historic analysis suggests that such legal evolution is a slow process and that law reform is neither a predictable nor clear path to development.[629] Transplants of legal models and legislation have proven largely ineffective; changes in substantive law rarely provoke behavioural change in the absence of corresponding legal norms and values and functioning rule of law institutions.[630] Investing in the capacity of courts and lawyers, however, does seem to make a difference; this might include courts organisation, electronic case management, budget support (particularly providing salaries sufficient to dissuade corruption) and legal education.[631]

It must also be acknowledged that, despite marked differences in the economic structures and performance of WANA States, a common trait is the reality that growth and political stability are deeply interconnected. Since 2011 alone, conflict and unrest has cost the region an estimated US$ 170 billion in foregone economic

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[623] ibid 207, 228, 39.

[624] ibid 69, 93-95, 102-103, 113-114, 123.

[625] ibid 276-277.

[626] ibid 221, 231, 62-77.

[627] ibid 221, 232-250. China is the fastest growing economy in the world, but does not exhibit a well-developed legal or financial system. Dam's thesis is that rapid growth provided the resources and public constituency to allow better rule of law institutions to develop. Moreover, that while high rates of growth can be achieved in the absence of the rule of law, to get to high income levels requires development of legal intuitions.

[628] ibid 52, 276-277.

[629] ibid 69, 112.

[630] See generally R Ehrenreich Brooks 'The New Imperialism: Violence, Norms and the "Rule of Law" ' (2003) 101 Michigan L Rev 2275 and C Alkon 'The Cookie Cutter Syndrome: Legal Reform Assistance Under Post-Communist Democratization Programs' (2002) J Dispute Resolution 327.

[631] Dam (n 55) 69, 93, 224, 276.

potential.[632] For some scholars, the toll of instability on economic outcomes is a greater challenge than economic weakness in its own right. Conflict's cost, its tendency to recur and how it impacts neighbouring countries, mean that peace at a regional level is not only a humanitarian imperative, but also an economic one. Modalities to promote such stability are integrally related to the rule of law — improved regional trade, credit availability and foreign direct investment are simply not possible without contract enforcement, legal safeguards and fair recourse.

The SDG 16 on Justice: Why Take it Seriously?

In 1762, Jean-Jacques Rousseau asserted that justice under a social contract is nothing less than forcing people to freedom. Brutal as this may seem, Rousseau was actually arguing that in order for justice to prevail — and the good life and freedom that would ensue — people must force such freedom by electing accountable representatives, who would create institutions to maintain 'a good state' under the rule of law. That force was, and still is, the rule of law and justice.

This chapter has provided a basis for understanding the challenges facing the WANA region — recurrent conflict, the growing threat of extremism and economic stagnation — as integrally related to justice. Insofar as Goal 16 elaborates a development framework premised upon justice, an opportunity exists to address these challenges in new and arguably more effective ways. But the road ahead will not be straightforward. Implementing Goal 16 will take far more courage, both political and social, than the inter-state negotiations that preceded it. Regimes will be called upon to embrace a level of citizen empowerment; justice is difficult to quantify, and will be thus hard to measure; and the costs associated with reforms will be high. Each of these steps will need to be balanced against competing imperatives, such as food security deficits, water scarcity, unemployment and a burgeoning refugee population. The people of WANA's priority list is long, and this makes understanding the inter- connections between justice, conflict, protection and growth, all the more important. It is also the time to reaffirm that justice values — fairness, equality and protection of the vulnerable —are at the heart of the Islamic tradition. One need only look to the communities in Jordan, Lebanon and Turkey and Iraq who are hosting the latest wave of refugees fleeing conflict to see this principle in action.

Even when justice planning is initiated, securing outcomes will require constant prioritisation. Social justice is not something that is fought for, achieved, and then placed on the backburner. It is a constant journey that needs close attention and regular refinement. Moreover, the obligation to build justice institutions transcends national boundaries, and must be approached as a shared responsibility. There must also be an inquiry into what justice ideal to promote. In development circles, the emphasis has long been on the reform of state institutions. Yet it is not ontologically given that state law, and the institutions that maintain it, is the only locus of justice in WANA. The reality is that tribal law, customary law and other informal legal systems are equally valid for many. This reality must be addressed before any state's justice institutions can claim sole and legitimate authority to maintain law and order.

Taking Goal 16 seriously starts with WANA states deciding that inclusive and sustainable development is a process accompanied by freedom, dignity and social justice, and that the benefits of implementing a justice goal outweigh the cost of remaining indifferent to it. Justice is not ipso facto worth striving for, but is crucially important in breaking the conflict trap, eradicating the threat of violent extremism, and providing the necessary conditions for economic growth that is steady and inclusive. If what is at stake is the elimination of Daesh, Jabhat al-Nusra, al-Qaeda and their likes, is justice not worth the journey? If what is at stake is to live without a notion that conflict is just around the corner — or as in Syria, Iraq and Libya, right in one's home — is justice not worth the cost? If what is at stake is a fundament on which to build a diversified economy and sustainable growth, how can anyone not be up for the challenge of implementing Sustainable Development Goal number 16 on justice?

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[632] World Bank Group, *Innovative Financing Mechanisms: Middle East and North Africa Region*, 2015.

Part III:
Water and Energy in a Human Environment

Adel Elsayed Sparr

The introduction to this book established a resilience framework to encompass issues ranging from economy, society and security to environment, water, health, sanitation, energy and climate change. Together, they form the human environment, which is the entire biosphere as an aggregated ecosystem. In the WANA context, this is not a well- researched area, and this is reflected in national policy-making. The aim of the following chapters is to demonstrate that forging evidence-enabled policies for water, energy and climate change mitigation has positive impacts on security, the economy and wider society. The rationale is that the human environment is transnational by nature. The challenge is thus to overcome political division by national boundaries to address an essentially shared issue. For this to happen, regional cooperation coupled with international regimes and solutions should be preferred over exclusively national agendas.

In the WANA context, the most pressing environmental issues are water scarcity, food insecurity and energy shortages. Each is arguably the result of poor policy- making and resource management. Energy is a prime example. Solar power is abundant and infinite yet unexploited in WANA. But instead of harnessing the sun's energy, we allow the greenhouse effect to produce excess energy, 90 percent of which is stored in oceans. The amount of energy absorbed by these bodies of water over the last 18 years (1997-2015) is equal to that of the 130 previous years (1865-1997); the quantities are unreal — 150 zettajoules, which corresponds to the detonation of one Hiroshima bomb every second for 75 years. Further, the increased pace of this process decreases oceans' capacity to absorb energy. Thus while oceans have previously been saving the atmosphere and land masses from most of the effects of global warming, this is likely to change.[633]

Finding pathways to what is known as deep decarbonisation is crucial, including new sustainable sources of energy. It is disconcerting that no WANA state participates in the Deep Decarbonization Pathways Project (DDPP),[634] particularly when the region is more vulnerable to the consequences of climate change.[635] Moreover, sustainable energy is imperative in a protracted refugee situation, which puts increased stress on host state resources. The solutions are often temporary in nature, resulting in economically, socially and environmentally unsustainable situations for both refugees and host populations. However, US$ 335 million as a one-time investment in basic solar lanterns and improved cook stoves would save US$ 323 million per year in energy costs for refugees.[636] CO_2 emissions would likewise significantly decrease with such an investment, as well as opening up space for income generating activities, which otherwise would be spent on collecting biomass (i.e. firewood) to meet energy needs.

Water scarcity and food insecurity are equally pressing challenges. In Yemen, for instance, 14 million people — more than half of the countries' population — are food insecure, and 20 million do not have access to clean water and sanitation. Taiz is "essentially becoming an uninhabitable city" and across the country, about 3 million children are malnourished.[637] It has even been posited that Sana'a could become the first capital in the world to run out of water. At the same time, Yemen needs to stop chewing itself dry — 45 percent of the water is used to cultivate qat, and an additional 45 percent goes to small scale farming, which only contributes

[633] P J Gleckler, P J Durack, R J Stouffer, G C Johnson and C E Forest, 'Industrial-era global ocean heat uptake doubles in recent decades', (2016), *Nature Climate Change*, <doi:10.1038/nclimate2915> at 18 February 2016.

[634] DDPP, (2016), < http://deepdecarbonization.org/> at 18 February 2016.

[635] World Bank, 'Turn Down the Heat: Why a 4°C Warmer World Must Be Avoided', (2012), Washington, DC.: World Bank <https://openknowledge.worldbank.org/handle/10986/11860> at 19 February 2016.

[636] G Lahn and O Grafham, 'Heat, Light and Power for Refugees: Saving Lives, Reducing Costs', (2015-11-17), *Chatham House*, <https://www.chathamhouse.org/publication/heat-light-and-power-refugees-saving-lives-reducing-costs> at 20 February 2016.

[637] Oxfam, 'Hunger haunts millions across Yemen and Syria', (2016-02-05), <http://www.oxfamamerica.org/explore/stories/hunger-haunts-millions-across-yemen-and-syria/> at 19 February 2016.

to six percent of GDP.[638]

The situation is similar in the rest of WANA. In terms of water per capita per year, the global average is 6000m² while the World Health Organization recommends a minimum of 1000m². In Yemen, it is 88m², Libya 114m³, Jordan 134m³, Israel 233m³, Palestine 198m³, Saudi Arabia 84m³ and Qatar 28m³ — although the high- income states in the Gulf can buy themselves out of their below average water availability.[639] Such water scarcity, when coupled with geopolitical dynamics can undermine civic stability, as seen in Jordan, Egypt, Lebanon and Gaza.[640] Ultimately, where water, food and energy meet human life and society, the human environment takes shape. We need to craft policies that acknowledge this reality and cater to these tensions as an organic whole.

This section of the book is composed of two chapters. The first deals with water and food, how they interrelate, how their absence can cause conflict and displacement, and how scarcity is exacerbated by conflict and displacement in a circle of human suffering. It presents a nexus approach to understand these four components in relation to each other. This is the most effective way to understand conflict, its causes, and its consequences as they manifest in WANA. The policy implications of nexus approaches to regional issues are in a sense revolutionary. Today, issues concerning water and food are the domain of one responsible ministry, while conflict is often the domain of the defense and foreign affairs ministries.[641] A nexus approach, however, implies joint responsibility and ownership of environmental challenges, because water cannot be viewed as an issue isolated from economy, energy or migration policy. Adopting a framework for resilience necessitates a governance model that can deal with different issues from several perspectives simultaneously.

The second chapter concerns sustainable development — a concept at the fore of policy discussion, yet still lacks a clear and universal definition. Even if universality may not be the most important issue, a definition that reflects the societies in which it will apply is crucial. In WANA, this is not the case. Sustainable development is traditionally defined in a euro-centric setting, encompassing a capitalist model of economy, environment and society. The content of this has not properly been conceptualised in WANA, which could explain the lack of implementation of sustainable development in the region. This chapter reifies sustainable development in an Islamic setting and constructs a model using *fiqh*, Islamic jurisprudential principles. Implementing such a model for sustainable development may be key to gaining real traction at a grassroots level as well as among high-level policy-makers. If we are to bridge the gap between research and what people know and relate to — which is imperative for policy to have real impact — this model could constitute the difference.

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[638] IRIN, 'Time running out for solution to water crisis', (2012-08-13), <http://www.irinnews.org/analysis/2012/08/13/time-running-out-solution-water-crisis> at 15 February 2016.
[639] UN Water, 'Key Water Indicator Portal', <http://www.unwater.org/kwip> at 17 February 2016.
[640] K LaFond and C Kozacek, 'Infographic: Water and Security Hotspots 2016', (2016-01-11), *Circle of Blue*, <http://www.circleofblue.org/waternews/2016/water-climate/infographic-water-and-security-hot-spots-2016/> at 18 February 2016.
[641] Ministerial division and names differ from state to state and government to government, but there is mostly only one ministry that has executive responsibility for certain policy areas.

From Theory to Practice: A Sustainable Development Model Based on Islamic Principles

Dr Laylla Rkiouak

While humans have inhabited the earth for more than 200,000 years, it is only in the last six decades that significant changes to the biosphere have taken place. This is predominantly because societies have transitioned from being driven by biomass (renewable organic materials) to fossil fuels,[642] a phenomenon often referred to as the 'globalisation resurgence'.[643] This has allowed countries around the world to experience economic growth, poverty reduction and improved welfare.[644] Steady rises in per capita income and falling prices on commodities have increased the availability of goods and services, and the increased availability of food and medicine, as well as technological transfers, has facilitated an overall decrease in food insecurity, increased global life expectancy, and falling maternal and child mortality.

This rise in the use of fossil fuels has, however, come at a severe ecological cost. The pressures of global economic development and associated growth in production, particularly in emerging economies, has lowered the availability of previously plentiful resources such as freshwater, fuels (oil, gas and coal), minerals (copper, aluminium, iron ore) and grains (wheat, maize, rice).[645] Both overproduction and overconsumption, combined with weak regulation, has interfered with the planet's delicately balanced ecosystem,[646] manifesting in global temperature changes, deforestation, loss of biodiversity and increased pollution. These pressures mean that the population is consuming resources at a faster pace than the planet can regenerate.[647] If this trend continues — and the evidence suggests that it will[648] — the planet's ability to sustain life will be compromised.[649]

The solution that has been presented to combat these environmental challenges is 'sustainable development' — an interdisciplinary approach that considers the environmental, social and economic dimensions of a system. There are, however, important limitations inherent in this model, most importantly, the domination of economics, arguably brought on by strong western-centric influences and market economy thinking.

This state of affairs demonstrates that while free markets are certainly efficient for increasing productivity and standards of living, they are ineffective at preventing ecological damage and environmental spillovers.[650] The global environmental and scientific communities have long advocated for major changes in policy and human behaviour to stop and reverse such impacts.[651] They have also called for a better

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[642] H Haberl, 'The Global Socioeconomic Energetic Metabolism as a Sustainability Problem' *Energy* 31, no. 1 SPEC. ISS (2006) 87–99; A Galli, T Wiedmann, E Ercin, D Knoblauch, B Ewing, and S Giljum 'Integrating Ecological, Carbon and Water Footprint into a 'Footprint Family' of Indicators: Definition and Role in Tracking Human Pressure on the Planet' *Ecological Indicators*, The State of the Art in Ecological Footprint: Theory and Applications (2012) 100–112.

[643] Globalisation is understood as a process of interconnectedness between the world's people driven by international networks and flows of finance, trade and goods, technology and ideas, media and information and human capital.

[644] United Nations Development Programme 'Human Development Report' (2006) Palgrave Macmillan; United Nations Environmental Programme 'GEO4 Global Environment Outlook: Environment for Development' (2007).

[645] J Sachs *The Price of Civilization* (2011) 100-102.

[646] Haberl (n 1); R Rockström, W Steffen, K Noone, A Persson, FS Chapin, EF Lambin, TM Lenton 'A Safe Operating Space for Humanity.' *Science* 46 (2009): 472–75.

[747] Rockström (n 5).

[748] United Nations 'Copenhagen, 2009, Key Messages from the Congress', The International Scientific Congress on Climate Change, Global Risks, Challenges and Decisions, Copenhagen, Denmark (10–12 March 2009).

[649] D Moore, G Cranston, A Reed, and A Galli "Projecting Future Human Demand on the Earth's Regenerative Capacity." *Ecological Indicators*, The State of the Art in Ecological Footprint: Theory and Applications (2012) 3–10.

[650] Sachs (n 4) 33.

[651] O Sala, EF Stuart Chapin, IJJ Armesto, E Berlow, J Bloomfield, R Dirzo, et al. 'Global Biodiversity Scenarios for the Year 2100' Science 287, no. 5459 (March 10, 2000) 1770–74.

understanding of human induced changes in the climate, alongside a transition to a more sustainable system of consumption while maintaining or increasing societal wellbeing. The core advocacy aim is one of resilience; an acknowledgment that human societies are parts of a wider ecosystem, and that a holistic approach needs to be adopted.

The consequences of the aforementioned development patterns are playing out clearly and dramatically in the West Asia-North Africa (WANA) region, where the major environmental challenges are water scarcity, land degradation, desertification and pollution.[652] But while the need for sustainable development is urgent, the concept is foreign to many of the people who live in the region, and it is often perceived as a predominantly Western invention. A key question therefore, is how sustainable development can be reified and contextualised to become attractive to the region's population?

This chapter critiques the conventional sustainable development model and tries to tackle the aforementioned limitations by presenting a new approach that caters to the challenges and social norms specific to the WANA region. It argues that the required incentives to mobilise citizens and leverage political commitment might be found in the Islamic tradition. It concludes that maqasid al-shari'a (the objectives of Islamic law) provides a platform for a new regional definition of sustainable development and the basis for an Islamic Sustainable Development Model (ISDM).

The Evolution of Sustainable Development

Sustainable development was first defined in the Brundtland Report (1987) as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs."[653] This definition recognises the integrated nature of the relationship between humans and their environment. It further highlights the spatial and temporal dimensions of sustainable development as fundamental in societies where an increasing number of people need to lead decent lives both now and in the future. Equity and fairness are additional key principles in that priority is given to improving the conditions of the poor and to distribution across generations.[654]

By recognising future generations as key stakeholders, sustainable development exposes a key deficit in the status quo. Free markets do not protect future users; public goods such as fresh water and clean air are vulnerable to abuse and over- exploitation unless the economic activities pertaining to them are regulated.[655] Governments likewise have few incentives to protect future consumers; the design of democratic political systems means that they are preoccupied with short-term gains that reflect the needs and wants of their constituencies.[656] Sustainable development thus demands a commitment that current users and policy-makers act altruistically and as planetary stewards by making decisions that will protect future stakeholders.[657]

In 1981, Spreckley and Elkington introduced the idea that sustainable development could be understood as a responsible approach to business. They identified three pillars: people, planet and profit. Today, this model — also labelled 'triple bottom line' or 'triple P' — has come to dominate the political debate on sustainable development.[658] This has allowed businesses in profit-oriented societies to fit themselves within the sustainable development framework, in particular by highlighting economic growth as a central goal. The global adoption of the 3Ps model has arguably alienated countries with cultures that are not focused on economic growth or capitalism. It may also explain these countries' weak progress in certain areas, as well as their reluctance to engage in sustainable development debates and setting emission goals at the international level.

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[652] 'Arab Human Development Report' United Nations Development Programme (2009).
[653] United Nations, 'WCED World Commission on Environment and Development: Our Common Future' (1987).
[654] Sachs (n 4) 36.
[655] ibid 40-41.
[656] ibid 36.
[657] ibid 41.
[658] PP Rogers, KF Jalal and JA Boyd *An Introduction to Sustainable Development Earthscan*, 2008.

The United Nations and Sustainable Development

The transboundary and multi-sector nature of the environmental spill-overs caused by rapid industrialisation highlighted the need for international cooperation, creating a natural entry point for the United Nations (UN).[659] Its concern around, and interest in, sustainable development, can be traced back to the Conference on the Human Environment in 1972. This conference was followed by the World Conservation Strategy (1980) and the establishment of the World Commission on Environment and Development (1983). The Commission went on to prepare the aforementioned Brundtland Report (1987), which defined sustainable development, tabled key social, economic, cultural and environmental issues, and reviewed potential global solutions.

In 1992, the first UN Conference on Environment and Development (UNCED), also known as the Earth Summit was held in Rio de Janeiro. State leaders broadly acknowledged an urgent need for changes in consumption and production patterns. The Summit produced Agenda 21, a blueprint for sustainable development in the 21st century, aimed at enabling a high quality environment and healthy economy. Agenda 21 reaffirmed that sustainable development was delimited into economic, social and environmental pillars. A particularly important achievement was a reiteration of developed countries' commitment to 0.7 percent of GNP being allocated in official development assistance, especially to developing countries, as well as to transfer environmentally sound technologies.[660]

Despite such gains, progress was sluggish. In 1997, the UN General Assembly highlighted that "overall trends with respect to sustainable development are worse today than they were in 1992" and that "much remains to be done to activate the means of implementation set out in Agenda 21".[661] Herein marked what would become a gradual shift away from the environment as the lodestar of sustainable development. In September 2000, world leaders adopted the UN Millennium Declaration, committing to a new global partnership to reduce extreme poverty and setting out a series of time-bound targets with a deadline of 2015: the eight Millennium Development Goals (MDGs). With the exception of goal seven, 'ensure environmental sustainability', the notion of sustainable development and environmental protection was absent from the agenda.

The World Summit on Sustainable Development in 2002 marked a further shift away from the environment and towards social and economic development. This has been linked to governments' prioritisation of the MDG project as well as the 'development' of low-income counties occupying a higher place on the international agenda.[662] There was, however, increased recognition of the interlinked nature of environmental, economic and social challenges and the need for integrated approaches.

At the UN Conference on Sustainable Development (Rio+20) it was agreed that a set of Sustainable Development Goals would be developed. The UN Secretary-General established a 27-member High-Level Panel of Eminent Persons to advise on this process. At the same time, UN-facilitated thematic consultations and 50 national and regional dialogues took place around the globe. In the Arab region, consultations occurred in Algeria, Djibouti, Egypt, Jordan, Morocco and the Sudan. In 2014, an Open Working Group proposed 17 goals and 169 associated targets, which was followed by a process of inter-governmental negotiations. These goals were endorsed by heads of state at a high level political summit in September 2015. The goals and indicators, which range from poverty alleviation to sustainable growth, are outlined in the table below. Critically, the text is grounded in an elaboration of the 3Ps model: people, planet, prosperity, peace and partnership.

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[659] Sachs (n 4) 240.
[660] J Drexhage and D Murphy "Sustainable Development: From Brundtland to Rio 2012" International Institute for Sustainable Development (2010) 8.
[661] Resolution adopted by the General Assembly: S/19-2 "Programme for the Further Implementation of Agenda 21" A/RES/S-19/2 (19 September 1997).
[662] Drexhage (n 19) 8.

SDG	Suggested Goal	Potential Indicator	Potential lead agency
1	End poverty in all its forms everywhere	Proportion of population below $1.25 (PPP) per day	World bank
2	End hunger, achieve food security and improved nutrition, and promote sustainable agriculture	Proportion of population below minimum level of dietary energy consumption	FAO, WHO
3	Ensure healthy lives and promote well-being for all at all ages	Maternal mortality ratio (MDG Indicator) and rate	WHO
4	Ensure inclusive and equitable quality education and promote life-long learning opportunities for all	Percentage of children (36-59 months) receiving at least one year of a quality pre-primary education program	UNESCO
5	Achieve gender equality and empower all women and girls	Prevalence of girls and women 15- 49 who have experienced physical or sexual violence [by an intimate partner] in the last 12 months	WHO, UNSD
6	Ensure availability and sustainable management of water and sanitation for all	Percentage of population using safely managed water services, by urban/rural	WHO
7	Ensure access to affordable, reliable, sustainable, and modern energy for all	Share of the population using modern cooking solutions, by urban/rural	SE4A
8	Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	GNI per capita (PPP, current US$ Atlas method)	IMF, Word Bank
9	Build resilient infrastructure, promote inclusive and sustainable, industrialozation and foster innovation	Access to all-weather road (% access within [x] km distance to road)	World bank
		Mobile broadband subscriptions per 100 inhabitants, by urban/rural	ITU
10	Reduce inequality within and among countries	Indicator on inequality at top end of income distribution: GNI share of richest 10% or Palma ratio	UNSD

SDG	Suggested Goal	Potential Indicator	Potential lead agency
11	Make cities and human settlements inclusive, safe, resilient and sustainable	Percentage of urban population living in slums or informal settlements (MDG Indicator)	UN-habitat
12	Ensure sustainable consumption and production patterns	Disclosure of Natural Resource Rights Holdings	EITI, UNCTAD
13	Take urgent action to combat climate change and its impacts	CO_2 intensity of new power generation capacity installed (gCO_2 per kWh), and of new cars (gCO_2/pkm) and trucks (gCO_2/tkm)	UNFCCC
14	Conserve and sustainably use the oceans, seas and marine resources for sustainable development	Share of coastal and marine areas that are protected	UNEP-WCMC
15	Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss	Annual change in forest area and land under cultivation	FAO, UNEP
16	Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels	Violent injuries and deaths per 100,000 population	UNODC
		Number of refugees	UNHCR
17	Strengthen the means of implementation and revitalize the global partnership for sustainable development	Domestic revenues allocated to sustainable development as percent of GNI, by sector	IMF

Effectiveness and Potential of the Conventional Sustainable Development Model

Today, the concept of sustainable development enjoys widespread legitimacy among the international community including in academia, government, civil society and the private sector. It has become the mainstay of the UN Development and Environment Programmes, has been incorporated into the mandates of international financial institutions including the World Bank and International Monetary Fund, and it increasingly occupies a role in private sector corporate social responsibility strategies. It is also gaining resonance at national levels; by 2009, 106 governments had developed sustainable development strategies.[663]

Against such widespread uptake, progress has nevertheless been limited and unsustainable trends in production and consumption continue. Growth in population-driven consumption has meant that humanity's demands on the plant have more than doubled in the last 40 years.[664] There is also vast and rising inequality; about 20 percent of the world's population consume 80 percent of the natural resources used each year.[665]

One explanation is tied to the vagueness and flexibility around sustainable development as a concept. While this is arguably what has allowed such a high degree of consensus to take hold, it also explains the difficulty in moving from sustainable development as a theoretical paradigm to its implementation. In the absence of a shared, constructive understanding of the concept, entry points and pathways for implementation are still lacking.[666] This has manifested in a tendency to focus on narrow issues, or 'implement what is implementable'.

Sustainable development's malleability has also left it vulnerable to competing agendas.[667] This became apparent in the early 2000's, when focus moved away from the environment and towards development, broadly understood by governments as economic growth, with success defined in terms of benchmarks such as Gross Domestic Product per capita.[668] Particularly since the advent of the MDG project, the development priority has been lifting poor countries out of poverty with the discourse geared heavily towards poverty alleviation through free trade and debt relief.[669] This has worked to some extent; developing countries (mainly in Asia) have achieved exceptional rates of economic growth and decreasing rates poverty. Such growth, however, has been facilitated by recreating the resource-intensive production models seen in developed countries, fuelling a new wave of consumption-driven environmental exploitation.

This exposes an overall contradiction in the modern debate about sustainable development. The concept evolved to address the environmental spill-overs caused by unregulated overproduction, and understanding that solutions lay in a combined effort that linked societal, economic and environmental behaviours and objectives.

Allowing the profit-development dimension in sustainable development to take precedence has been a facilitation, rather than a discouragement of overproduction.

A key issue that the sustainable development discourse never overcame was the political economy of transitioning to sound ecological practices. Acting as environmental stewards for future generations requires a voluntary foregoing of immediate wants and needs. This, in turn, requires fundamental changes in the consumption habits of and lifestyles enjoyed in developed societies and the middle classes of developing societies. It will also involve short-term costs while low-carbon pathways, such as renewable energy, grow an effective market share and become more affordable.[670] That such a transition is unlikely to bode well with consumers largely explains the lack of political leadership on challenging consumerism and making

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[663] Drexhage (n 19) 9.
[664] World Wildlife Fund, Living Planet Report (2008) 2.
[665] Drexhage (n 19) 15.
[666] ibid 16.
[667] ibid 16.
[668] ibid 17.
[669] ibid 16-17.
[670] Sachs (n 4) 202, 232.

good on environmental commitments. A compounding problem is relative institutional strength. The organisations lobbying for trade and growth — the World Bank and the IMF — are more influential than their environmental counterparts, such as the UN Environmental Programme. Likewise, at the national level, Ministers of Trade and Finance usually enjoy greater political strength than Ministers of Environment.[671]

In this context, sustainable development advocates have not been able to find the required political entry points; accountable to their constituencies, there are insufficient political incentives in the current consumer climate to make the necessary changes to realise sustainable development gains. Until 'growth versus protection' is made a political issue, consumerism, overproduction and environmental impact will continue to operate in a vicious cycle.

In summary, sustainable development evolved as an interdisciplinary approach to chart a course out of impending environmental disaster. A key strength is its holistic and integrated approach — an ability to see the bigger picture.[672] This responds to the fact that for decades, scientists have been trained to develop disciplinary expertise, leading to a lack of compounded nexus considerations between disciplines.[673] However, this perceived strength has turned out to be the model's Achilles heel. Sustainable development was somewhat hijacked by an agenda of capitalism and growth. The precedence of the economic dimension of sustainable development — at the expense of social and environmental dimensions — has facilitated a further exploitation of human and natural resources. Optimists see this disequilibrium as preventing the model from achieving its raison d'etre. However, for pessimists, sustainable development has become an instrument of a global agenda to lead humanity in a pre-determined direction towards capitalist goals.[674] Either way, in its current form, the sustainable development model is unable to achieve its aims. New approaches are required.

Re-Conceptualising Sustainable Development

Some scholars argue that the 2007-2010 financial crisis and associated decline in trust in ongoing globalisation provides a window of opportunity to reconceptualise sustainable development.[675] This may be particularly the case in the WANA region, whose members already harbour scepticism towards the strength of the Western capitalist model and are averse to the consumerism and individualism that they associate with America and other Western states.[676] In this, citizens of the region may well have identified something that the West has long ignored. Developed countries' persistent quest for wealth has resulted in a diminution of social trust, citizenship values and participation in governance. Libertarianism has crowded out the role of the public sector, weakening its social redistributive function. This state of affairs has marginalised the interests of the poor, the vulnerable and future generations. There is increasing evidence to support such a view. Americans may enjoy the highest rates of per capita GDP, but score poorly on indices of happiness, quality of life and wellbeing. With escalating inequality, a narrow group enjoys the lion's share of resources, and the public is increasingly associating corporatism with unethical behaviour and resource exploitation.[677]

Against this backdrop, there is a strong case for radically redefining how development is understood. Whereas indicators have traditionally focused on Gross National Product (GNP), the discourse is beginning to recognise that this measure overlooks other important factors such as quality of life, worker satisfaction, integrity, environmental stewardship, wealth equity and poverty alleviation.[678] Progress has been seen in the

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[671] Drexhage (n 19) 18.
[672] F Charnley, M Lemon and S Evans 'Exploring the Process of Whole System Design' *Design Studies* 32, no. 2 (March 2011) 156–79.
[673] J Blizzard and LE Klotz "A Framework for Sustainable Whole Systems Design." *Design Studies* 33, no. 5 (September 2012): 456–79; Such cooperation is required, not only between scientists and policy-makers, but also with consumers and inhabitants; see N Roorda 'Fundamentals of Sustainable Development' Text, 2012 available at http://www.routledge.com/books/details/9781849714198/.

[675] Drexhage (n 19) 19.
[676] Sachs (n 4) 136.
[677] ibid 5-13, 23-24, 68, 138-167, 226-230.
[678] Drexhage (n 19) 19.

development of, for example, Bhutan's Gross National Happiness theory, UNDP's Human Development Index and the Legatum Institute's Prosperity Index.[679] Arguably, however, such models still risk lacking the value resonance required to transition to practices that are ecologically sustainable in the WANA region. This gap might be filled by a homegrown development model; one that reflects the values, goals, priorities and challenges shared by the people of the region. Such a model must isolate the specific drivers that can galvanise population groups, inspire collective action and demand widespread respect. Arguably, many of these drivers can be found in the Islamic tradition.[680]

The idea of a sustainable development model that is connected to religious values stands somewhat in opposition to the current model, which reflects a separation of religious ideology and public policy-making. The sustainable development discourse has, however, acknowledged that the pillars of sustainable development need to be completed by an ethical dimension, as indicated in the 2002 World Summit on Sustainable Development's Programme of Action: "We acknowledge the importance of ethics for sustainable development and, therefore, emphasize the need to consider ethics in the implementation of Agenda 21."[681]

Importantly, in the WANA context, ethics, shared values, morality, and religion are highly interconnected. Politics and religion are not separate, and while this is not completely unproblematic, it is a regional reality. Moreover, it is not ontologically given that religion and politics must necessarily be separate. Islam is a comprehensive way of life, "concerned with individual rights, practices and rules, but also with issues often associated with the state and governance".[682] It comprises a wide range of rules, covering both the private and public spheres, ranging from hygiene and dietary norms, prayer and fasting, to financial administration practices, and civil and criminal law. Not surprisingly, in contrast to the West, in Islam there is no separation between religion and the state.

Moreover, there is strong uptake potential for Islamic environmentalism in the WANA region through, for example, Islamic eco-philosophies, Islamic environmental law, green jihadi activism, Islamic local currencies, halal eco-certified foods, Islamic eco-villages, and 'green' sheikhs and scholars. Some scholars suggest that violations of environmental ethics by Muslims result from a gap between theories and practice[683] — a gap that could be fulfilled by policymakers and Islamic scholars giving practical shape to the Islamic environmental discourse through appropriate legislation. Muhammed Iqbal opines that the modern world stands in need of biological renewal; moreover, that religion can ethically prepare modern man to overcome the burden of its responsibility.[684] Moreover, there is a range of scholars who suggest that the *Qur'an* and Sunna comprise all of the necessary elements to develop and construct a platform for environmental ethics.[685]

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[679] Sachs (n 4) 205-207; Drexhage (n 19) 10.

[680] See generally 'Uthman ibn 'Adffan (r. 644-656); P M Holt, Ann K S Lambton, Bernard Lewis (eds) *The Cambridge History of Islam*, 185 Vol 1 (Cambridge: Cambridge University Press 1977).

[681] Report of the World Summit on Sustainable Development in Johannesburg available at < http://www.cepal.org/rio20/noticias/paginas/8/43798/Platform_for_Action.ENG.2002.pdf>

[682] A Black *The West and Islam: Religion and Political Thought in World History*; Oxford University Press (2008); M Mohamad *The Challenge* Pelanduk Publications (1986).

[683] Z Sardar (ed) *Touch of Midas: Scientific Values and the Environment in Islam and the West Manchester*, U.K. ; Dover, N.H., U.S.A: Manchester Univ Pr (1984).

[684] Sir M Iqbal, *The Reconstruction of Religious Thought in Islam*. New Delhi: Kitab Bhavan, 1930.

[685] L Wersal 'Islam and Environmental Ethics: Tradition Responds to Contemporary Challenges' *Zygon®* 30, no. 3 (1995): 451–59; N Seyyed Hossein 'Islam and the Environmental Crisis' *Wiener Slavistisches Jahrbuch* 34, no. 4 (1990): 217–34; R Kamla, S Gallhofer and J Haslam 'Islam, Nature and Accounting: Islamic Principles and the Notion of Accounting for the Environment' *Accounting Forum* 30, no. 3 (September 2006): 245–65; RS Gottlieb *This Sacred Earth: Religion, Nature, Environment* Routledge, 2003; H Have *Environmental Ethics and International Policy* UNESCO (2006); I Ozdemir, *Toward an Understanding of Environmental Ethics from a Qur'anic Perspective* Harvard University Press (2003); W Jenkins 'Islamic Law and Environmental Ethics: How Jurisprudence (Usul Al-Fiqh) Mobilizes Practical Reform' *Worldviews: Global Religions, Culture, and Ecology* 9, no. 3 (2005): 338–64; A Al-Damkhi "Environmental Ethics in Islam: Principles, Violations, and Future Perspectives' *International Journal of Environmental Studies* 65, no. 1 (2008): 11–31; AA Bagader *Environmental Protection in Islam* 2nd Revised edition., Union Internationale pour la Conservation de la Nature et de ses Ressources (1996); AU Usman and M F Khamidi "Green and Sustainable Development in an Islamic Perspective' (2012); C Schwarte "Environmental Protection in Islamic Law: An Overview on Potential Influences for Legal Developments in Iraq' *Local Environment* 8, no. 5 (October 1, 2003): 567–76; RC Foltz, FM Denny and A Baharuddin 'Islam and Ecology' Harvard University Press; O Al-Jayyousi *Islam and Sustainable Development: New Worldviews*. Gower Publishing, Ltd. (2012); I Abdul-Matin and K Ellison *Green Deen: What Islam Teaches about Protecting the Planet*. San Francisco, CA: Berrett-Koehler Publishers (2010); Abdel-Haleem, Muhammad 'Islam, Religion of the Environment: The Need for Re-Education and Retraining' in *The Environment and Judiciaries of the Arab World: Proceedings of the Arab Chief Justices' Conference and Symposium on the Training of Judges and Other Legal Stakeholders in Environmental Law and Sustainable Development, Cairo, Egypt, May 29-31, 2004*, edited by Mamdouth Marie and Adel Omar Sherif, 68–83. Cairo: Supreme Constitutional Court of Egypt (2004).

This suggests that there may be significant support for a regionally, culturally and ethically focused sustainability model that presents an alternate narrative to the profit-dominated 3Ps model. Moreover, that an Islamic Sustainable Development Model might serve as a platform to galvanise the commitment and political will necessary to see the fundamental changes needed for sustainable development to take hold in WANA.

It is important to highlight that the idea of approaching sustainable development from an Islamic perspective is not new. In 2002, the Islamic Educational, Scientific and Cultural Organization (ISESCO) developed the Islamic Declaration of Sustainable Development.[686] The Organization of Islamic Cooperation (OIC) presented this model to the World Summit on Sustainable Development in 2002. The declaration reviewed the sustainable development challenges faced by the Islamic world: poverty, illiteracy, foreign debt, degraded economic and social conditions, a disequilibrium between population growth and natural resources, low technical capabilities, and a paucity of expertise and skills in environmental management. The declaration also charted a general framework for an Islamic agenda to overcome these obstacles and advocated for cooperation within the Islamic world to achieve sustainable development. This framework identified five crucial parameters: (1) to achieve justice, (2) to promote active participation, (3) to establish genuine inter- state partnership through a just system of world trade, (4) to enhance the international community's implementation of practices and policies and (5) to educate youth on environmental responsibility and the preservation of religious and moral values. Like the 3Ps model, the Declaration's principal weakness is how it is influenced by the capitalist development framework. By elevating economic growth as the means by which to close the gap between Islamic and developed countries, the model ignores the unsustainable and environmentally destructive actions through which such growth is facilitated.

A more effective effort was made by Dr Odeh al Jayyousi in his 2002 book, *Islam and Sustainable Development*.[687] This work highlights the cultural and spiritual gap in the conventional/Western sustainable development model. It uses the Islamic notions of balance, harmony, wisdom, *maslaha*, and living lightly on earth to formulate an Islamic model structured around good governance, excellence, social capital, integrity without corruption to fulfil a good life (*hayat tayeba*) and respect for the earth. It further proposes the local community as the core of economic solidarity and social cohesion. Nonetheless, while presenting a comprehensive Islamic worldview on sustainable development, his model lacks the metrics required for successful application within the policy sphere.

Towards an Islamic Sustainable Development Model (ISDM)

A regionalised model for sustainable development arguably must find its basis in usul al-*fiqh* (Islamic jurisprudence). The process for deriving law from the fundamental texts (the *Qur'an* and the *Sunna*) is called *ijtihad* — in layman's terms *ijtihad* is the mechanism by which the sources of shari'a can be applied in changing circumstances and to contemporary issues. In order for *ijtihaad* to be valid, it must comply with maqasid al-*shari'a*, the objectives or underlying goals/intentions of Islamic law. *Maqasid al-shari'a* is an important discipline that defines the divine wisdom, purposes and intents behind the rulings upon which *shari'a* is based, such as justice, human dignity, free will, generosity, facilitation and social cooperation.[688] Scholars have identified different objectives of shari'a, but the principle objective is generally considered *maslaha*, or social welfare. *Maslaha* can be divided into three sub- categories: necessities, needs and luxuries (figure 1). In practice, this means that when jurists interpret the fundamental sources they cannot interpret them in a way that is inconsistent with the broader social welfare or what is in the best interests of society. Further, the objectives of Islamic law are to promote the welfare of human beings, which lies in safeguarding their faith,

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[686] ISESCO is an international organization specializing in the fields of education, science, culture and communication, established to develop an educational system inspired by the Holy Qur'an and the Sunna.
[687] Al-Jayyousi (n 44).
[688] J Auda *Maqasid Al-Shariah: A Beginner's Guide*, edited by Shiraz Khan and Anas Al Shaikh-Ali. London International Institute of Islamic Thought (2008).

life, intellect, posterity and wealth.[689] These five components constitute a sub-division of the necessities of maslaha (figure 2). Whatever ensures their safeguarding serves the public interest and is desirable.[690]
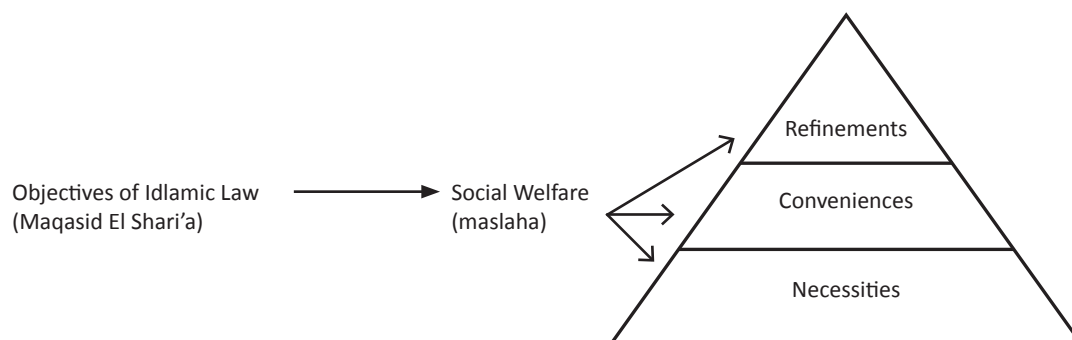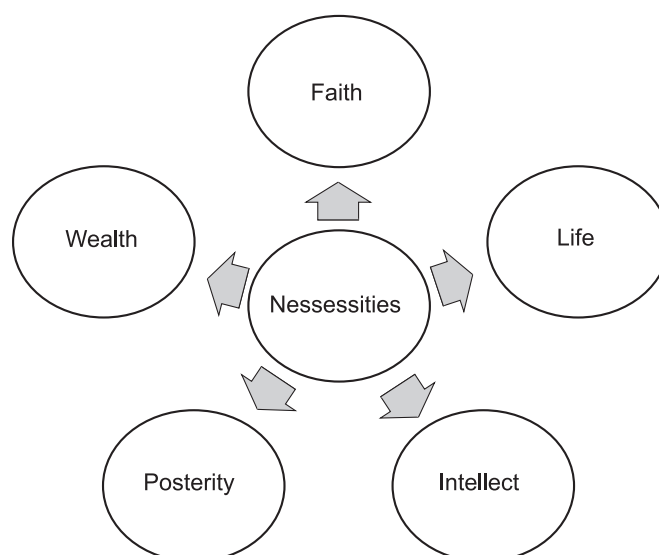
Figure 1: The Objectives of Islamic Law

Objectives of Idlamic Law
(Maqasid El Shari'a) → Social Welfare (maslaha)

Refinements
Conveniences
Necessities

Figure 2: The Necessities for Social Welfare

Faith

Wealth

Life

Nessessities

Posterity

Intellect

These categories have evolved over time in response to changing conditions and challenges. For example, Ibn Ashur presented a new understanding of *maqasid al- shari'a* by reconceptualising each necessity in contemporary terminology: posterity evolved into the preservation of the family system, and faith evolved into freedom of belief. He also introduced the concepts of freedom, rights, and equality as maqasid *al-shari'a* in their own right. Along a similar vein, Yusuf al-Qaradawi included human dignity and rights as fundamental objectives of *shari'a*.[691]

These extensions of maqasid al-shari'a demonstrate that there is space for Islamic reform to respond to contemporary and global issues: an opportunity to address the challenges facing Muslim societies by presenting an intellectual methodology for reform from within the religious sphere.[692] Arguably, environmental

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[689] Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: International Institute of Islamic Thought (2008); MH Kamali 'Maqasid Al Shari'ah – Made Simple' accessed July 9, 2015 at <http://www.academia.edu/7121442/Maqasid_Al_Shari_ah_Made_Simple_-_Mohammad_Hashim_Kamali>; GE Attia *Towards Realization of the Higher Intents of Islamic Law: Maqasid Al-Shariah: A Functional Approach* London International Institute of Islamic Thought (2008).

[690] AW Dusuki and NI Abdullah, quoting Al-Ghazali, 'Maqasid al-Shari'ah, Maslahah, and Corporate Social Responsibility' (2007) 24/1 *The American Journal of Islamic Social Sciences*.

[691] Auda (n 48).

[692] ibid.

degradation presents the most pressing challenge of the 21st century, and as such, should be included as part of the *maqasid al-shari'a* (as this is *maslaha*). In short, an ISDM based on *maqasid al-shari'a* represents a valid and efficient response to poor environmental governance from within the domain of Islam.

Based on this understanding of maqasid al-shari'a, and in response to the deficits outlined above, a new model of sustainable development can be proposed. Such a model is centred around the notion of human dignity and based on the five pillars that uphold dignity: justice (*'adl*), intellectual knowledge and education (*'ilm*), social welfare (*maslaha*), human stewardship of natural resources, and wealth and economic activities (*iqtisad*). The essential elements of this model and the issues it addresses stand in opposition to previous proposals for an ISDM, by bridging the gaps between policy-makers and people, and between conventional sustainability models and the specifics of the WANA region. Below, the tenets of the ISDM are unpacked around the Islamic principles and *Qur'an*ic verses from which they build.

Human Dignity

The dignity of the human person is not only a right in and of itself, but a central tenet of Islam and fundamental to Arab identity. Islam's acknowledgement of human dignity finds its origins in the liberty that Allah accords to all men and women: "We have bestowed dignity on the children of Adam."[693] The *Qur'an* states that human beings were created "in the best of moulds."[694] They are born free and granted intellect. This enables them to make reasoned choices and maintain a higher position with respect to all other creatures.[695] Because human beings are free, they should not be coerced in any way nor should life be unnecessarily regimented to deprive liberty.[696] It is on this basis that both the *Qur'an* and the *Sunna* prohibit persecution, aggression, and the violation of human dignity. Instead, personal growth is encouraged, through piety and righteousness.

Justice

In Islam, justice is a right, a responsibility (a duty towards God), and a supreme virtue. Islam also recognises the importance of equality before the law, without discrimination on the grounds of race, gender, religion or status. It is inherent in Islam that divine justice is always sought and that the weak in society are taken care of.

> And among those We created, is a community which guides by truth and thereby establishes justice.[697]

> O you who believe! Be maintainers of justice, bearers of witness for God's sake, even though it be against your own selves, your parents, or your near relatives, and whether it be against rich or poor.[698]

> God commands (the doing of) justice and fairness [...] and forbids indecencies and injustice.[699]

Intellect, Knowledge and Education

Muslims are urged to always seek wisdom and knowledge. The importance of education in Islam is highlighted in the first verse of the *Qur'an*:

> Proclaim! In the name of thy Lord and Cherisher, Who created- Created man, out of a clot of congealed blood: Proclaim! And thy Lord is Most Bountiful, - He Who taught the pen, - Taught man that which he knew not.[700]

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[693] Q17:70.
[694] Q95:4.
[695] M Baderin *International* Human Rights and Islamic Law 141, Oxford: Oxford University Press (2005) 52.
[696] ibid.
[697] Q7:181.
[698] Q4:135.
[699] Q19:90.
[700] Q96:1-5

Scholars have proposed education models that highlight development as an integral part of learning, leading ultimately to knowledge of God.

Maslaha

As discussed above, maslaha relates to the principle of social welfare; that decisions should be, and decision-makers should act, in the best interests of society. Within a sustainable development context, maslaha can be closely related to the protection of the vulnerable, another key principle in Islam. Islam demands proper civic behaviour, compassion for others,[701] and the protection of specific groups such as children, women and the elderly:

> O Men! Here I have been assigned the job of being a ruler over you while I am not the best among you. If I do well in my job, help me. If I do wrong, redress me. [...] The weak shall be strong in my eyes until I restore them to their lost rights, and the strong shall be weak in my eye until I have restored the rights of the weak from them.[702]

Moreover, maslaha can be related to protecting public goods from being compromised by private self-interest, Islamic property rights are conditional upon them not being used wastefully or in a way that deprives others of their rights,[703] that all of humanity should benefit from nature's resources equally, that the state assumes land 'ownership' for the benefit of the community, and that Islamic property rights incorporate a redistributive element — evident in institutions such as endowment (*waqf*) and charity (*zakat*).

Human Stewardship

The notion of stewardship is drawn from the Islamic principle of oneness, or *tawhid*: the notion that everything originates from one divine source. Islam sees the universe as an interlocking matrix of abiotic and biotic systems in which every entity has a specific role forming a coherent and united whole.

> To Him belongs whatsoever is in the heavens and the earth, all obey His will. And it is He who originates creation.[704]

> In this view, nature not only supports the physical dimensions of human needs, but also the spiritual dimensions.[705]

> Assuredly the creation of the heavens and the earth is a greater (matter) than the creation of men: Yet most men understand not.[706]

Tawhid (unity) holds that the universe was created, and is controlled and sustained, by one Supreme Being, thus uniting Muslims under a single and uncontested vision. *Tawhid* underscores God-human, human-human, and human-universe relationships. It identifies humans and the ecosystem as integral parts of the same universe, both of which are regulated by divine law. A central theme is the interconnectedness between humans, animals, insects, plant life, earth, water, air and imperceptible creatures — all of which are a part of God's creation. Environmental protection thus becomes a human mandate and a spiritual mission.

If God did not create trees, iron, and the various tools need to manufacture ships; if He did not make known to people how to use all these items; if He did not create water as a running body which allows ships to move on it; if He did not create winds with their powerful movement and if He did not widen and deepen rivers enough to allow the movement of ships in them; it would have been impossible to benefit from these ships. He is the Manager (al-Mudabbir) and the Subjugator (al-Musakhir) of these matters.[707]

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[701] Sachs (n 4) 9-10.
[702] Baderin (n 54) 141.
[703] DA Caponera "Ownership and Transfer of Water and Land in Islam." *Water Management in Islam* (2001) 94-102.
[704] Q30:26.
[705] Foltz (n 44).
[706] Q 40:57.
[707] S Raysuni *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law* IIIT (2005).

Given this mutually constituting relationship between human beings and nature, the *Qur'an* and the hadith outline various principles on environmental ethics and natural resource protection. Islam recognises the collective role of humankind as stewards of the earth,[708] and so "if a Muslim plants a tree or sows seeds, and then a bird, or a person or an animal eats from it, it is regarded as a charitable gift for him."[709] Some view this guardianship role as a measure of success with respect to the preservation of natural capital and fulfilment of Muslims' responsibilities towards God:

> And it is He who has made you successors (*khala'ifa*) upon the Earth and has raised some of you above others in degrees (of rank) that He may try you through what He has given you. Indeed your Lord is swift in Penalty; but indeed, He is Forgiving and Merciful.[710]

> The sacredness of nature into which God's presence is permeable should be highlighted. The *Qur'an* notes that with the extinction of species, groups of worshippers are silenced:

> Have you not seen that unto Allah glorifies whosoever is in the heavens and the earth, and the birds with wings outspread (in their flight)? Each one knows its own (mode of) prayer and praise. And Allah is Aware of what they do.[711]

> The seven heavens and the earth and all that is therein, glorify Him and there is not a thing but glorifies His praise. But you understand not their glorification. Truly, He is Ever Forbearing, Oft-Forgiving.[712]

Finally, Islam emphasises the need for maintaining general balance. The *Qur'an* states that everything is created in proportion and measure. Thus, for human society to be complete, balance between material and spiritual value is essential. Islam teaches moderation in all matters, with the loss of balance leading to corruption. However, to maintain this balance, knowledge on production and consumption pattern limitations is needed. Consider this line from *surat al-baqarah*: "Eat and drink from the provision of Allah, and do not commit abuse on the Earth, spreading corruption"[713] or the following:

Corruption has appeared in the land and sea, because of what the hands of men have earned, that God may give them a taste of some of their deeds, in order that they may find their way back.[714]

Wealth and Economic Activities

In Islam, there are three goals of economic activity: the achievement of self- sufficiency for one's survival, provision for the wellbeing of one's family and provision to assist those in economic need.[715] The *Qur'an*, *Hadith*, *Sunna* and the *Shari'a* set out an elaborate framework for business relations. Within this framework, business is understood as socially useful, morally justified and even a religiously encouraged economic activity, provided that Islamic guidelines are adhered to. Five guidelines on marketplace benevolence can be elaborated: (1) no excessive profit, (2) leniency towards the poor and conditionality on the rich, (3) gentleness and flexibility, (4) prompt debt repayment and the possibility of debt cancelation, and (5) credit extensions to the poor without an expectation of repayment. Particularly relevant to the sustainable development model is the vehicle through which Islam's sensitivity to the poor and the need for the wealthy to contribute to their welfare finds tangibility: zakat. Another relevant principle is unjustified enrichment; Islamic banking rules prevent personal gain that is not derived from personal effort:

Zakat expenditures are only for the poor and for the needy and for those employed to collect [zakat] and

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[708] Abdul-Matin (n 44); C Chapin, F Stuart, SR Carpenter, GP Kofinas, C Folke, N Abel, WC Clark, P Olsson, et al. 'Ecosystem Stewardship: Sustainability Strategies for a Rapidly Changing Planet' *Trends in Ecology & Evolution* 25, no. 4 (April 2010): 241–49.
[709] Sahih Bukhari, Book of Agriculture, hadith 513.
[710] Q6:165.
[711] Q17:41.
[712] Q17:44.
[713] Q2:60.
[714] Q30:41.
[715] AA Islahi and Shaikh M Ghazanfar 'Economic Thought of Al-Ghazali' MPRA Paper (1998) <http://mpra.ub.uni-muenchen.de/53465/>

for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveller – an obligation [imposed] by God.[716]

Conclusion

Defining an efficient and responsible path of sustainability is a *sine qua non* for resolving the challenges confronting the WANA region today.[717] Lifting the region out of its dysfunctional and entrenched patterns of environmental governance will be neither fast nor easy. A long-term strategy for incremental progress is required. An ISDM that bridges the gap between conventional, Western-centric sustainability models and the social, cultural, economic, ethical and religious characteristics of the WANA region, as well as its policy realities is needed to implement such strategies. The ISDM proposed in this chapter responds to this and, moreover, constitutes a model for enhancing the resilience of WANA as an eco-social system.

The states of the WANA region need to make a formal commitment to and draft a strategy for Islamic sustainable development. A decision-making framework that understands environmental transition as part of *maqasid al-shari'a* likewise needs to be established. This strategy should ensure that policies, institutions and processes in the government, social and private sectors all fulfil the objectives of Islamic Law. Through such a strategy, governments must take responsibility for resolving key sustainable development deficits in line with *maqasid al-shari'a*. Such change must take place in a new regional architecture that places human dignity at the core of the development process and envisages resilience.

Finally, the role of citizens in implementing a sustainable development model cannot be understated. Thus far, resources and programming have largely been geared towards national policies rather than the role that communities and local leaders can play in natural resources management. End-users need to be engaged in more effective ways, through education (on religious rights and responsibilities) and empowerment (a space and the tools to craft innovative solutions to their own problems). This must be coupled with identifying and engaging local thought leaders (such as Imams) and change makers (such as youth leaders) to promote changes in attitudes and use patterns, and advocate for the integration of quality and equality of access in broader environmental goals. With more than 1.6 billion Muslims, corresponding to over 20 percent of the world population, an ISDM could play a crucial part in solving the puzzle of sustainable development.

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[716] Q9:60

[717] LH Endress 'Chapter 3 - Scarcity, Security, and Sustainable Development' in *Sustainable Economic Development*, edited by AM Balisacan, U Chakravorty and M V Ravago, 49–66. San Diego: Academic Press (2015).

The Water-Food-Displacement Nexus

Heather Elaydi

Countries in the West Asia-North Africa (WANA) region are among the most food import dependent in the world, as well as the most water scarce in terms of availability per capita. With approximately 85 percent of water use in the region attributed to the agricultural sector, the relationship between food and water is particularly significant. Moreover, despite such huge water investments, most WANA states are net food importers, relying on international markets to feed their populations.

The WANA region not only shares bodies of water, it shares a regional food system, and it shares populations — particularly through refugee movement. Both food and water insecurity have been advanced as potential contributing drivers of migration and of conflict, and both are exacerbated by the displacement that results from conflict.

This chapter examines the links between water and food impact displacement in the region and how water scarce countries can manage water and food security in a way that does not make them more vulnerable to conflict and displacement. It begins by emphasising the importance of dealing with each intersection within the nexus (food- water, water-energy and energy-food) separately and comprehensively. It then develops a framework through which to analyse the impacts of and on the food-water intersection in the context of internal displacement and refugee movement, including through examples from Iraq, Jordan, Lebanon, Syria and Yemen.

What is Food and Water Security?

According to the Food and Agricultural Organization (FAO), food security exists "when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life."[718] Four pillars of food security were later identified and added to this definition: availability, access, utilisation, and stability.[719] Availability commonly refers to the physical availability of a sufficient quantity of quality food, and is closely linked to domestic production, a country's import capacity and food stocks. The pillar of accessibility stems from Amartya Sen›s concept of entitlements to food, and stresses the importance, not only of food supply, but also physical and economic access to food, as determined by income, assets and food prices.[720] Stability of food supply is often tied to international markets, where price fluctuations and exporting country behaviours (such as export bans) can greatly impact price stability and available food quantities.

There are three main routes for countries to achieve food security: domestic production, international trade and reliance on food aid.[721] In many parts of the region, domestic production is being compromised by changes in the climate, increased drought and desertification. Reliance on international trade is also problematic as global food markets are highly volatile and subject to price spikes which are quickly passed on to consumers. This is important because many people in the WANA region live close to the poverty line and spend a large portion of their income on food, meaning that when prices rise, they are less able to access imported food staples. It is important to highlight that food security can vary within a country; moreover, just because a country is food secure overall, this should not imply that all people have access

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[718] FAO, Rome Declaration on World Food Security. World Food Summit (Rome, 13-17 November 1996).
[719] FAO, Declaration of the World Summit on Food Security. World Summit on Food Security (Rome, 16-18 November 2009).
[720] A Sen, *Poverty and famines: an essay on entitlement and deprivation* (1981).
[721] J Harrington, 'Did food prices plant the seeds of the Arab Spring?' (lecture delivered at the School of Oriental and African Studies, London, 28 April 2011).

to safe and adequate food. In countries such as the Kingdom of Saudi Arabia (KSA)[722] (which is both heavily dependent on imports and have high income inequality), wealthier households can withstand food price fluctuations, whereas poorer households become more vulnerable to food insecurity. Likewise in Lebanon, which imports 90 percent of its food, price hikes have reduced overall food availability. Lower income households are most affected; the increased cost of fruit and vegetables has impacted the nutritional content of diets, as such stocks are often viewed as non-essentials, with demand being more elastic.

Water security is defined by the United Nations as "the capacity of a population to safeguard sustainable access to adequate quantities of acceptable quality water for sustaining livelihoods, human well-being, and socio-economic development, for ensuring protection against water-borne pollution and water-related disasters, and for preserving ecosystems in a climate of peace and political stability."[723] There are, however, several definitions and framings of this concept: (1) a focus on quality and quantity; (2) water-related hazards and vulnerability; (3) a human-needs approach, which encompasses access, food security, and human development related concerns; and (4) sustainability.[724]

Many countries in WANA are considered either water or food insecure, and many are both. Countries that are water insecure are usually also food insecure unless the population earns sufficient income to withstand international market fluctuations. However, food price volatility can drastically impact the policies of even wealthy WANA countries, as can be seen in the recent policy shifts away from food import and toward food self-sufficiency in many Gulf States. Several countries in the region also host large refugee populations that rely on international food aid. Instability in donor funding can thus become another source of food insecurity.

The Water-Food-Energy Nexus

The nexus framework (figure 1) describes how and where food, water, and energy systems are connected. It can be broken down into three intersections: food-water, water-energy and energy-food. While these connections have long been understood through the hydrologic cycle, they were reconceptualised as a nexus in the mid-1990s.[725] The framework was developed as a way to promote an inter-sectoral approach to efficient resource management to ensure food, water and energy security. Without such an approach, sectors tend to act in isolation, and without knowledge of or attention to the way actions within one sector affect another. This is also true of humanitarian responses to displacement crises; agencies tend to focus separately on the water, food and livelihoods sectors. Discussions on water scarcity often fail to take into account the broader food security challenges that may accrue following a population escalation, for example.

Allan, Keurlertz and Eckart differentiate between the 'grand nexus' (water-food- energy) and two 'sub-nexus' — water-food-trade and energy-climate change.[726] While the water-food-trade sub-nexus has attracted significant interest in recent years, there have been challenges conceptualising and operationalising these links.[727] A key issue, as articulated by Allouche, is that while global debates on the nexus reflect particular realities and priorities, these may not be replicated at the local level, noting that resource allocation is always political — a fact that the nexus approach tends to overlook.[728] Additional shortcomings in nexus thinking include: (1) the difficulty integrating three sectors governed by different governance regimes; (2)

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[722] See for example L Addario, 'Rich Nation Poor People', Time (23 May 2013) <http://time.com/3679537/rich-nation-poor-people-saudi-arabia/> at 10 September 2015.

[723] UN-Water, 'Analytical Brief on Water Security and the Global Water Agenda' (2013).

[724] C Cook and K Bakker, 'Water security: debating an emerging paradigm' *Global Environmental Change* 22(1) (2012) 94-102.

[725] P H Gleick, 'Water and energy', *Annual Review of Energy and the Environment*, 19(1) (1994) 267-99.

[726] J A Allan, M Keulertz and E Woertz, 'The water-food-energy nexus: an introduction to nexus concepts and some conceptual and operational problems' *International Journal of Water Resources Development*, 31(3) (2015) 301-311.

[727] Bazilian et al, however, have identified two analytical and policy-making entry points for the food-water link: "[first,] if a water perspective is adopted, then food and energy systems are users of the resource [and second,] from a food perspective energy and water are inputs."M Bazilian et al, 'Considering the energy, water and food nexus: Towards an integrated modelling approach' Energy Policy 39(12) (2011) 7896-7906.

[728] J Allouche, 'Food, energy and water: the politics of the nexus', The Guardian, (London) 24 June 2014 http://www.theguardian.com/science/political-science/2014/jun/24/food-energy-water-politics-nexus at 20 August 2015.

the subjectivity of 'scarcity', which can neglect power imbalances and inequalities in access; and (3) the limits of an optimisation approach, which can "can encourage the commodification of resources, downplaying environmental externalities, such as biodiversity and climate change, as well as poverty alleviation needs, ignoring day-to- day realities, local priorities and needs."[729] Because of such challenges, Allan, Keurlertz and Eckart have advocated a move away from a rational knowledge-based, optimal allocation and management of resources, to a more actor-focused approach.[730]

The Food-Water Intersection

There are two food-water linkages (see figure 1): water is used to grow food, and food is used to transport embedded or virtual water. This is a useful distinction given that the socio-economic issues arising from food-water production and virtual water import-export are often different. For example, on the production side, mismanagement of irrigation water can lead to depletion of water sources to an extent that threatens agricultural livelihoods; on the virtual water trade side, reliance on international suppliers can result in price shocks, threatening food accessibility in importing countries.

Figure 1: Diagram of the Water-Energy-Food Nexus (UNU, 2013)[14]

THE WATER-ENERGY-FOOD NEXUS (UNU 2013)
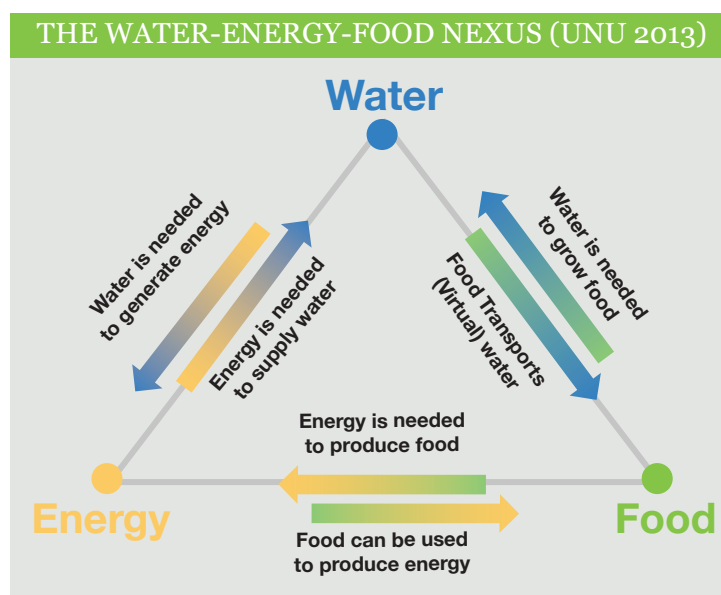
Underpinning the food-water-trade sub-nexus is the concept of virtual water, i.e. the amount of water used in the production of traded agricultural and industrial goods, and therefore the amount of water indirectly traded between countries. Virtual water was initially proposed as a policy tool through which West Asia could ease pressure on domestic water resources, maintain political stability and avoid conflicts over water resources.[731] However while the region's import of water-intensive food products, particularly cereals and meat, has significantly increased in the past two decades, conflict and displacement continues. Moreover, while virtual water import has contributed significantly to food availability in water scarce countries, it has failed to buffer other forms of food insecurity. Food price volatility, in particular, can increase the risk of social unrest. Whether virtual water import has acted sufficiently as a water security tool is equally questionable. As long as farmers stand to profit from producing and selling food, even if a country imports 100 percent of its food requirements, it is not a given that they will stop producing or exporting.

Recently, virtual water has been examined along the full food supply chain, taking into account the range of actors involved as water managers i.e. those who decide how much water is used, the efficiency of its use, what the water is used for, and where the final product goes. The role of major global agro-business corporations, given their control of virtual water (i.e. agricultural) trade, is important,[732] as is the issue that private sector managers of food supply chains are dysfunctional, not eco-system aware and not precautionary

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[729] J Allouche, C Middleton and D Gyawali, 'Technical Veil, Hidden Politics: Interrogating the Power Linkages behind the Nexus' *Water Alternatives* 8(1) (2015) 610-626.

[730] J A Allan, M Keulertz, and E Woertz, above n 9.

[731] J A Allan, 'Virtual water': a long term solution for water short Middle Eastern economies?' (paper presented at the British Association Festival of Science, University of Leeds, 9 September 1997).

[732] S Sojamo et al, 'Virtual water hegemony: the role of agribusiness in global water governance.' *Water International*, 37(2) (2012) 169-182.

in matters of natural resource sustainability.[733] There are four reasons for this: (1) food prices are highly politicised and of strategic importance; (2) power relations in food supply chains are asymmetrical, with farmers being weak stakeholders; (3) those with power in private sector food chains having little power over managing water; and (4) markets do not pass on the real cost of water in a way that manages demand or that takes into account the scarcity of the resource at the point where production occurs.[734] Farmers are also important; despite their marginal political influence, 90 percent of food-water (water used in the food supply chain) is managed by farmers, while 10 percent is managed by corporations and other private sector actors.[735] But while it is necessary to engage farmers, their role must be understood within the broader political economy. Domestic policies and market factors, which make certain choices more or less financially attractive, essentially direct farmers in how to manage the water they use.

Several authors have criticised the push towards reliance on virtual water imports highlighting that it has "enabled policy makers in the region to avoid the implementation of reforms necessary to improve water resources management."[736] In Jordan, for example, an estimated 76 billion litres of water is lost annually due to aging infrastructure and leaking pipes. Despite this, governments and donors often prefer to spend funds on new projects rather than repair infrastructure.[737] Agricultural water subsidies are also prevalent throughout the region, which not only discourage efficient water use, but also benefit politically influential landholders above farmers from lower socio-economic groups.

Another critique of virtual water trade in terms of the security benefits it proposes to offer is that it relies too much on the availability component of food security, neglecting the important role of economic accessibility.[738] The popular uprisings around the Arab world, for instance, have been linked to food price spikes and the financial pressures placed on households in accessing food. Allouche further claims that while "global trade has enabled national food and water security [it] is now threatened by increasing food prices, food sovereignty movements, and land 'grabbing'."[739] Anotelli and Tamea[740] also examine the link between virtual water trade and food prices, noting that "the 2007–2008 price spikes seem not to affect virtual water imports, which keep on increasing steadily until 2009, although the price of food was 50 percent higher than in 1980 and twice as high as in 2000."[741]

This highlights the inelasticity of food demand, and points to a need to address how the general population of a country is able to cope with changing prices.

A fundamental problem is that an explicit focus on achieving a balance between food security and water security is often overlooked. In a country like Jordan, which faces absolute water scarcity and heavy dependence on international food imports, concentrating on one can mean a depletion of the other. Efforts to ameliorate the impacts of international food price spikes by increasing domestic production can mean a depletion of water resources, while attempts to save water by limiting agricultural sector growth can mean that the population is left vulnerable to volatile food prices. This is playing out in KSA, which has recently

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[733] J A Allan, M Keulertz and E Woertz, 'The water-food-energy nexus: an introduction to nexus concepts and some conceptual and operational problems' *International Journal of Water Resources Development*, 31(3) (2015) 301-311.

[734] ibid.

[735] J A Allan, 'Water and Food Security: Food-water and Food Supply Value Chains' in M Antonelli and F Greco (eds), *The Water We Eat* (2015) 17-34.

[736] M Antonelli and S Tamea, 'Food-water security and virtual water trade in the Middle East and North Africa' *International Journal of Water Resources Development*, 31(3) (2015) 326-342; J A Allan. 'Millennial water management paradigms: making Integrated Water Resources Management (IWRM) work' *Mafhou*, (2001) < http://www.mafhoum.com/press/53aE1.htm> at September 15 2015; M Zeitoun, J A Allan and Y Mohieldeen, 'Virtual water 'flows' of the Nile Basin, 1998–2004: A first approximation and implications for water security' *Global Environmental Change* 20(2) (2010) 229-242.

[737] Mercy Corps, 'Tapped Out: Water Scarcity and Refugee Pressures in Jordan' (2014).

[738] J Allouche, 'The sustainability and resilience of global water and food systems: Political analysis of the interplay between security, resource scarcity, political systems and global trade' Food Policy 36 (2011):S3-S8.

[739] ibid.

[740] M Antonelli and S Tamea, 'Food-water security and virtual water trade in the Middle East and North Africa' International Journal of Water Resources Development, 31(3) (2015) 326-342.

[741] M Marktanner, S K Das and A Niazi, 'Food security challenges in the Arab States/MENA region in the context of climate change: The role of the regional directors team' (Position paper, Regional United Nations Development Group Arab States/Middle East and North Africa, nexus of climate change and food security. United Nations Development Group March 2011).

seen a marked increase in its agricultural exports, despite having the lowest rainfall of any country in the world.[742] The country is achieving this through the depletion of its slow-recharge aquifers. While KSA clearly needs to achieve both food and water security, export of agricultural good — or virtual water export — is counter-intuitive when looking at the food and water sectors in tandem.
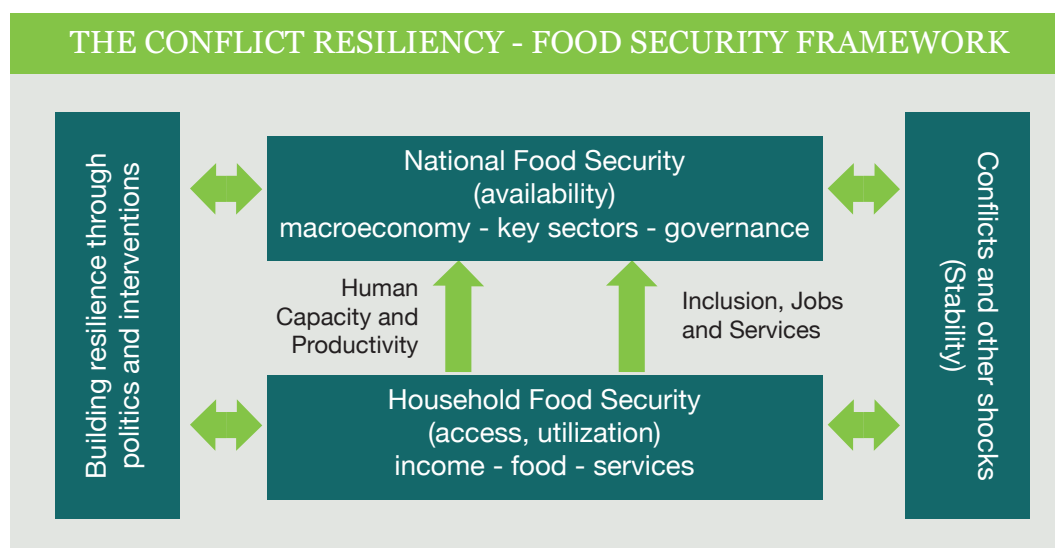
Another example is Yemen where qat farming accounts for up to 90 percent of groundwater consumption[743] and is largely responsible for the rapid exhaustion of water resources. This has been made possible because farmers earn more from qat than from other crops,[744] and although it does not contribute substantially to the country's domestic food production, water and agricultural policies do not prevent the agricultural sector from using excessive water. The government is aware that improving the country's water scarcity situation is linked to a decrease in qat production, but is hesitant to do so given the importance of qat to farmers' livelihoods, in Yemeni tradition and social life, and the other benefits that cultivation of the drug brings to communities:[745]

Research has shown that there are also some beneficial aspects to qat cultivation by increasing the availability of local services and generating employment for rural Yemenis from other parts of the country. In an assessment of qat in Yemen, the World Bank noted that the qat trade facilitates regular transfers of money from cities to rural areas. Moreover, the vast majority of income from qat sales remains in the local area, and employment in qat cultivation helps to limit urbanization.[746]

The Human Dimension of the Food-Water Intersection

A food-water-displacement framework must elaborate an understanding of the links between food security, water security and human activity.

Figure 2: The Conflict Resiliency – Food Security Framework[30]

THE CONFLICT RESILIENCY - FOOD SECURITY FRAMEWORK

Building resilience through politics and interventions

National Food Security (availability)
macroeconomy - key sectors - governance

Human Capacity and Productivity

Inclusion, Jobs and Services

Household Food Security (access, utilization)
income - food - services

Conflicts and other shocks (Stability)

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[742] 'Desert blooms: Saudi's agricultural exports soar despite world's lowest rainfall', Albawaba, 1 September 2015 <http://www.albawaba.com/business/the Kingdom of   's-agricultural-exports-soar-despite-world's-lowest-rainfall%3A-desert-blooms-737860> at 10 September 2015

[743] ibid.

[744] ibid.

[745] C Giesecke, 'Yemen's Water Crisis: Review of background and potential solution'. (USAID Knowledge Services Centre (KSC) Research Series 2012).

[746] ibid.

The framework depicted in figure 2 considers the availability, accessibility, utilisation and stability of food supplies, and depicts how conflicts and other shocks, such as drought or price rises, impact food security at national and household levels.[747] It further demonstrates how different factors at the micro and macro levels can contribute to resilience, in areas of policy, governance, human capacity and services. The model is helpful in two ways: the distinction drawn between macro-level national food security and micro-level household food security helps to identify which actors are most affected by or have the most control over particular components of food security. Second, the framework links external influences and pressures (both negative and positive) to national and household food security, showing that decisions made at these levels are often subject to events beyond their control. A more complex analytical framework is shown in figure 3, which links the climate system, natural resources, human security and societal stability. This framework unpacks the various factors that need to be considered within each category as well as the different ways that each are connected — not only in terms of impact, but also in terms of actions that can be taken (i.e., mitigation, adaptation, response).

Figure 3: Analytical Framework of Linkages Between the Climate System, Natural Resources, Human Security and Societal Stability[31]

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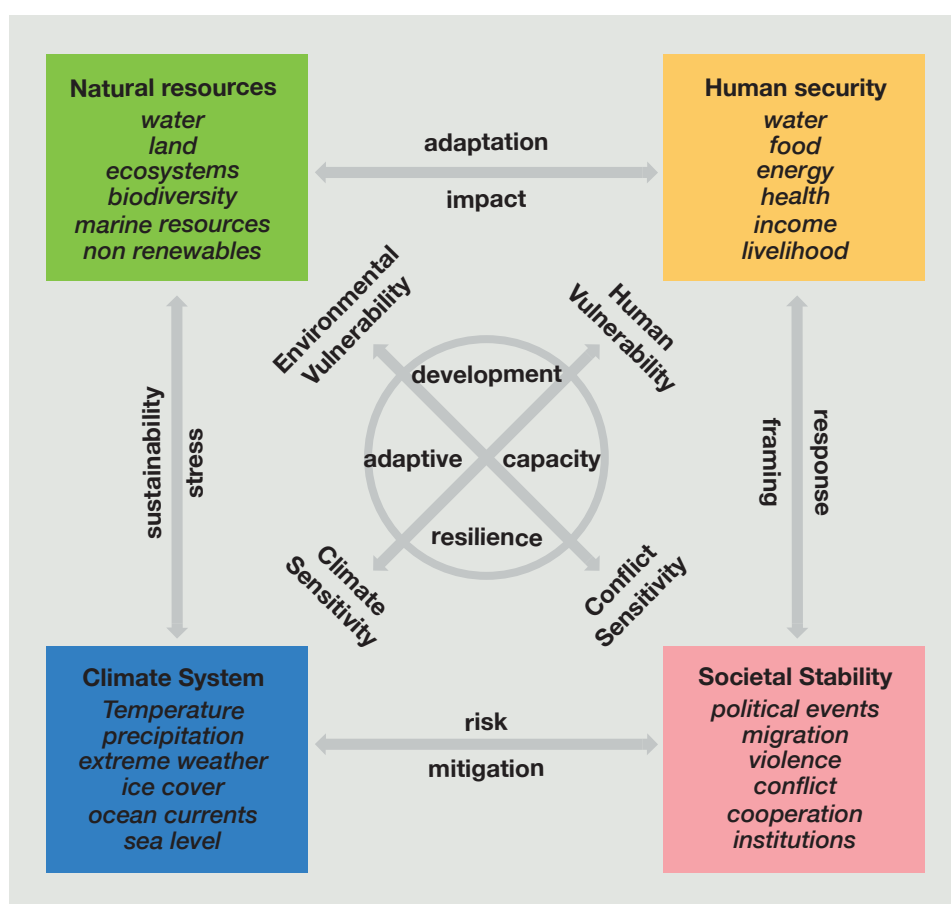
[747] ibid.

Figure 4 illustrates the basic driver-pressure-state-impact-response (DPSIR) framework, which is used to explain the causal relationships between society and the environment. Drivers (D) are activities that result in Pressures (P), which directly affect the State of the Environment (S). These changes in turn have Impacts (I) on the socio-economic welfare of people and ecosystems, stimulating Responses (R) from society to mitigate, prevent or adapt to those impacts. These responses can in turn lead to new drivers, pressures, changes in the environment, or impacts. This framework is useful to show the complex and often circular causations between human activity and the environment. However, in the context of food, water and displacement, the links may be more complex. Further, there is a need to consider that not all drivers are human activities, and not all changes in 'state' are changes in the state of the environment; they can be changes in the human condition, for example. Consider the following: drought (D) → decreases availability of domestically produced food (P) → increased reliance on highly priced imports (S) → decline in economic access to food for segments of the population (I) → increased domestic production using groundwater (R, D) → over-exploitation of water (P) → depletion of water resources (S)→ decrease in agricultural activity and livelihoods (I) → urbanisation (R, D); and cycle continues.

Figure 4: Casual Linkages in the Driver-Pressure-State-Impact-Response (DPSIR) Framework[31]
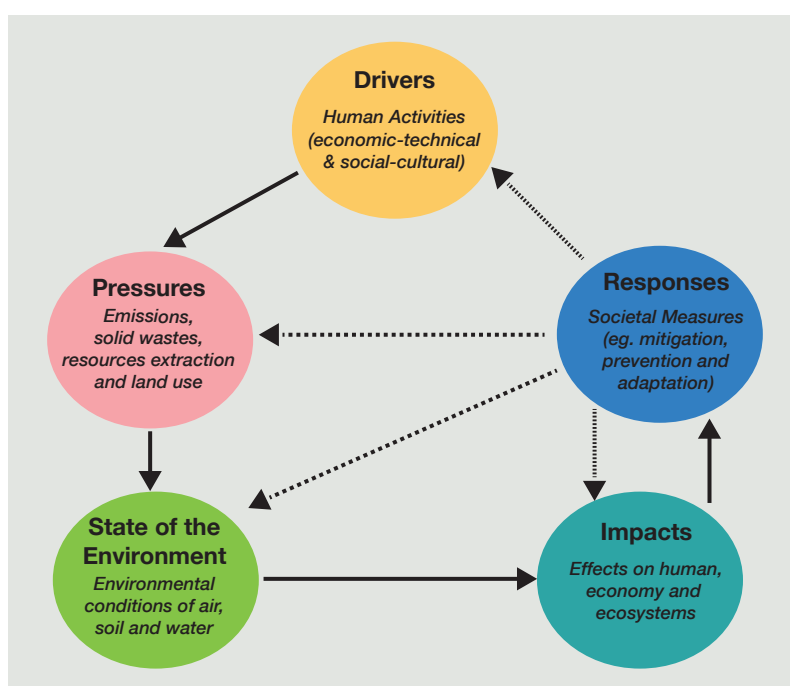
A Food – Water – Displacement Framework

A framework that is centred on food, water, conflict and displacement must illustrate, first, the connection between food security and water security, and second, the causal links between food-water and socio-economic factors relating to conflict and displacement. Given that the links between the food (both production and trade) and water sectors are particularly strong in WANA, a combined food and water security framework is advocated. The framework should link environmental and natural resource factors with human behaviour, human security, social stability, as well as encompass both national and household levels. The aim is to facilitate a means of balancing the need for water savings with the need to maintain the physical availability and financial accessibility of food. The framework presented below illustrates both the links between food and water, and the connection between these links and the socio-economic factors that drive displacement. Often, water and food are examined in isolation in terms of their relationship to human behaviour, (e.g. how either food or water insecurity can lead to conflict and displacement). Analysing these relationships within the same framework can help show how food-related social and economic circumstances can shift due to factors related to water, and vice versa. Such an analysis can enable those working in the development and

humanitarian sectors to better understand the related causes and consequences of food and water insecurity in connection with the social and economic well-being and stability of a population.

Casual Links between Water Insecurity, Food Insecurity, Conflict and Displacement

The food and water relationship can either act as a catalyst for displacement, or appear as the outcome of displacement. It is essential to note that more than one of these causal links is often seen within one case — with food-water links appearing as both catalysts and outcomes of displacement — resulting in a vicious cycle of displacement, water insecurity and food security within a country, or within parts of the region. There are four main causal links: natural resource scarcity as a driver of conflict and displacement; food insecurity as a driver of conflict and displacement; the impacts of displacement on natural resources; and the impacts of displacement on food security.[748]

i) Water and Natural Resource Insecurity as a Driver of Conflict and Displacement

Some claim that "challenges associated with climate variability and change and the availability of freshwater"[749] are indirect drivers of conflict and displacement. Black et al, for example, have found that economic, political, social, demographic and environmental drivers all affect migration decisions,[750] but that the principal means by which environmental change affects migration is through changes in livelihoods and through political drivers that impact resource conflicts. Bernauer et al, however, found "no systematic and direct causal relationship between environmental degradation and violent conflict";[751] instead, economic and political factors determine a population's ability to cope with environmental changes. Other scholars posit a stronger connection between environmental factors and conflict. Hendrix and Salehyan's research supports "a robust relationship between environmental shocks and unrest,"[752] while Kahl has linked conflict with a composite variable of demographic and environmental stresses (DES) which include "rapid population growth, environmental degradation, and an unequal distribution of natural resources".[753] This is certainly the case in Yemen, where strong links between water scarcity and conflict are present (70-80 percent of conflicts in rural regions have been identified as being water-related).[754] Abdulrahman Al Eryani, Yemen's former Minister of Water and Environment, believes that rising militancy in the country is rooted in a competition over natural resources, which manifests in tribal, sectarian, or political conflicts.[755]

ii) Food Insecurity as a Driver of Conflict and Displacement

Food insecurity appears to be a much stronger driver of conflict than natural resource scarcity. As previously discussed, the WANA region is heavily dependent on food imports; Egypt imports 50 percent of the calories consumed in the country, while Qatar imports up to 85 percent of its food demand. Such countries are highly vulnerable to the impacts of international food market price volatility because, as Woertz et al explain, food prices are downward sticky (meaning that local prices rise when global prices rise, but do not fall to the same extent when global prices fall).[756]

An additional reason is that a significant percentage of household income in the region is spent on food.

Based on a review of a number of studies linking food insecurity with conflict and violence, Brinkman

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[748] The links between conflict and displacement are not a focus of this chapter; displacement caused by large scale conflict is taken here as a widely accepted causal link.

[749] P H Gleick, 'Water, drought, climate change, and conflict in Syria' *Weather, Climate, and Society* 6(3) (2014) 331-340.

[750] R Black, 'The effect of environmental change on human migration' *Global Environmental Change* 21 (2011) S3-S11.

[751] T Bernauer, T Böhmelt and V Koubi, 'Environmental changes and violent conflict' *Environmental Research Letters* 7(1) (2012).

[752] C S Hendrix and I Salehyan, 'Climate change, rainfall, and social conflict in Africa' *Journal of Peace Research* 49(1) (2012) 35-50.

[753] C H Kahl, *States, Scarcity, and Civil Strife in the Developing World* (2006).

[754] A Heffez, 'How Yemen Chewed Itself Dry', (Foreign Affairs) 23 July, 2013. <https://www.foreignaffairs.com/articles/yemen/2013-07-23/how-yemen-chewed-itself-dry> at 1 September 2015.

[755] L Kasinof, 'At heart of Yemen's conflicts: water crisis' (The Christian Science Monitor 2009) <http://www.csmonitor.com/2009/1105/p06s13-wome.html> at 1 September 2015.

[756] E Woertz et al, 'The Impact of Food Price Volatility and Food Inflation on Southern and Eastern Mediterranean Countries' Barcelona Centre for International Affairs, for Union of the Mediterranean (2014).

and Hendrix concluded that food insecurity is in itself a cause of conflict.[757] This is consistent with Bush's work that suggests that food price increases can provide the initial incentive for protesting other conditions relating to a population's food security, such as employment, wages, or unfavourable policy;[758] likewise, findings by Fearon and Laitin, that income as a measure of access to food is strongly linked to the initiation of conflict.[759] Marco Lagi et al specifically examined the links between the global food price spikes of 2011 and the protests leading up to the so-called Arab Spring. They concluded that while other factors may have been involved, "high food prices were a precipitating condition for the unrest".[760] Egypt, for example, which has a long history of food-related demonstrations including the notorious 1977 bread riots where 79 people were killed, saw a 37 percent rise in the price of bread during the food price spike of 2008, and annual food inflation of 18.9 percent until the uprising of 2011. IFAD has likewise linked the 2007-2008 food price spike to the additional four million malnourished people in Arab countries;[761] Bahrain, Jordan, Yemen, KSA, Lebanon, Morocco and Egypt all witnessed food riots and demonstrations during those years.

iii) Impacts of Displacement on Water and Natural Resource Security

Refugee influx and internal displacement, along with other forms of population growth, often increase competition for water and other natural resources, along with other environmental consequences. In Jordan and Lebanon, while there is little empirical research suggesting that refugees contribute significantly to environmental degradation,[762] hosting has undoubtedly added pressure to water resource availability.[763] A recent study also found that the Zataari camp is a source of pollution both within the camp itself and in surrounding areas, and that the camp may have a detrimental impact on the quality of groundwater in the future.[764] A study of an internally displaced persons (IDP) in Darfur, South Sudan, showed a correlation between the camp's population and decreased tree and shrub cover, and an increase in cultivated farmland.[765] A final example is Yemen, where refugee influxes[766] and urbanisation have made Sana'a, not only one of the fastest growing capitals in the world (at 7 percent per year), but also the first to potentially run out of water.[767]

iv) Impacts of Conflict and Displacement on Food Security

Hendrix and Brinkman have found that while food security is a threat multiplier for conflict, conflict is also a key driver of food insecurity.[768] Conflict drives food insecurity by disrupting production, disrupting flows of food, causing a decline in public and private investments in food production, and through the destruction of food and food-producing assets.[769] A key example is Iraq, where repeated conflict has caused significant damage to water, irrigation and electricity infrastructure, and Daesh has assumed control of water resources and farmland, disrupting 40 percent of the country›s wheat production.[770] In Lebanon, during the 2006

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[757] H Brinkman and C Hendrix, 'Food Insecurity and Violent Conflict: Causes, Consequences, and Addressing the Challenges' (Occasional Paper No. 24 (2011).

[758] R Bush, 'Food Riots: Poverty, Power and Protest' *Journal of Agrarian Change* 10(1) (2010) 119-129.

[759] J D Fearon and D D Laitin, 'Ethnicity, insurgency, and civil war' *American political science review* 97(1) (2003):75-90.

[760] M Lagi, K Bertrand and Y Bar-Yam, 'The food crises and political instability in North Africa and the Middle East', (2011).

[761] International Fund for Agricultural Development, *Improving Food Security in Arab Countries* (2009) xii.

[762] G Kibreab, 'Environmental causes and impact of refugee movements: a critique of the current debate' *Disasters* 21(1) (1997) 20-38.

[763] J T Al-Bakri et al, 'Impact of climate and land use changes on water and food security in Jordan: Implications for transcending "the tragedy of the commons' Sustainability 5(2) (2013) 724-748.

[764] S Al-Harahsheh, R Al-Adamat and S Abdullah, 'The Impact of Za'atari Refugee Camp on the Water Quality in Amman-Zarqa Basin' *Journal of Environmental Protection* 6(1) (2015) 16.

[765] M Hagenlocher, S Lang and D Tiede, 'Integrated assessment of the environmental impact of an IDP camp in Sudan based on very high resolution multi-temporal satellite imagery' *Remote Sensing of Environment* 126 (2012) 27-38.

[766] C Anne, 'Syrians in Yemen: Back to Square One' (Al Jazeera) 26 May 2015. <http://www.aljazeera.com/news/2015/05/syrians-yemen-square-150519102335187.html> at 1 September 2015

[767] C Boucek, 'Yemen: Avoiding a downward spiral', Carnegie Endowment for International Peace (2009).

[768] H Brinkman and C Hendrix, 'Food Insecurity and Conflict Dynamics: Causal Linkages and Complex Feedbacks' *Stability: International Journal of Security & Development*, 2(2) (2013) 3-5.

[769] E Simmons, 'Harvesting Peace: Food security, conflict, and cooperation' *Environmental Change and Security Program Report* 14(3) (2013).

[770] See: FAO, 'Farmers and Herders in Iraq in Dire Need of Support' (10 November 2014). <http://www.fao.org/news/story/en/item/265143/icode/>; A Nusca, 'As Conflict Persists, Iraq's Wheat Production Hangs in Balance' (13 August 2014.) <http://fortune.com/2014/08/13/as-conflict-persists-iraqs-wheat-production-hangs-in-the-balance/> at 1 September 2015.

war between Israel and Hezbollah, many farmers were forced to flee their land, leaving crops and animals unattended, causing production and income losses. Many farmers were subsequently unable to repay debts and acquire capital for the following cropping season, creating "a downward spiral of debt and poverty."[771]

It is the Syrian conflict, however, that has had the largest impact on the regional food supply system, affecting food security in terms of both the availability of and economic access to certain products. Prior to the war, neighbouring countries had long relied on Syria as an exporter of both cheap agricultural goods and inputs, the regime having supported the agricultural sector through heavy subsidies. The FAO has identified specific regional impacts as including declined total agricultural trade; a drop in bilateral agricultural trade with Syria and in transit trade through Syria; changes to trading routes in the region; and increased informal trade across borders with Syria. A further impact is an increase in the cost of agricultural inputs. Poultry and poultry products in Jordan, for example, which were mainly imported from Syria, are now in short supply.[772] Likewise in Lebanon, the closure of the trade route has increased the cost of domestically produced goods as well as of goods imported from other countries through Syria.[773] At the same time, increased food demand stemming from the refugee crisis has made the country more reliant on the international market. A final compounding issue is the downward pressure on wages in certain sectors resulting from the refugee influx, creating a double burden of rising food prices and lower wages for those households.

Displacement can also drive food insecurity. Chambers stresses the importance of distinguishing between different socio-economic groups within host populations, noting that "in rural refugee-affected areas, the better-off and more visible hosts usually gain from the presence of refugees and from refugee programs. In contrast, the poorer among the hosts can be hidden losers."[774] This supports the idea that access to food may be compromised by a refugee influx among poorer segments of the host population, even where the financial well-being of other hosts may actually increase.

Conclusion

Given the scarcity of water in most WANA countries, the import of virtual water in the form of food products has been a convenient solution to preserve remaining water resources and to ensure food security for the region's populations. However, in light of the global food price spikes over the last decade, it has become clear that achieving food security is not straightforward for countries that are predominantly food importers. Governments have begun to look at alternative solutions, including a return to domestic production. The challenge is how water scarce countries can balance water security and food security.

This chapter provides a framework for subsequent analysis of both food security and water security. In cases where populations are highly vulnerable to shifts in international food prices, there may be benefits to finding water-efficient ways of supporting domestic food production. In a case like Yemen, where both food and water security challenges are grim, water and agricultural policies that are more strategic in terms of supporting local food security needs must be developed. Such solutions cannot be found without further research into the causal relationships discussed throughout this chapter.

Conflicts resulting in large numbers of internally displaced people and refugees can add immediate pressure to neighbouring countries and urban centres. These pressures can affect both already scarce resources and the socio-economics of host populations. In either case, pressures can add to social tensions and then erupt into larger conflicts. For this reason, addressing the water and food security needs of populations dealing with displacement is an immediate and necessary concern. Moreover, to mitigate displacement, and the

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[771] FAO. Damage and Early Recovery Needs Assessment of Agriculture, Fisheries and Forestry (November 2006)

[772] FAO, *Agricultural Livelihoods and Food Security Impact Assessment and Response Plan for the Syria Crisis in the Neighbouring Countries of Egypt, Iraq, Jordan, Lebanon and Turkey* (2013).

[773] ILO, 'Assessment of the Impact of Syrian Refugees in Lebanon and their Employment Profile' (2013).

[774] R Chambers 'Hidden Losers? The Impact of Rural Refugees and Refugee Programs on Poorer Hosts' *International Migration Review* (1986) 245-263.

conflicts causing displacement, countries must find ways to balance the needs required for both water and food security.

If reducing water used for agriculture exacerbates poverty and increases the risk of social tension because people cannot afford to purchase imports, a better approach might be to encourage more efficient and strategic use of water geared towards boosting domestic food supply. On the other hand, if a population is relatively wealthy and able to withstand the price volatility that comes with dependence on international food markets, virtual water import becomes a safer option. Both scenarios, however, come with risk: domestic agriculture can be unexpectedly threatened by conflict, as seen most recently in Iraq, and virtual water import may be interrupted by trade embargos.

Governments, international organisations and development agencies working with refugee populations regularly produce research on refugees and either the water or the food sector. Taking up of the food-water intersection approach would encourage a necessary shift towards an examination of the mutual impacts of the food and water sectors in displacement contexts. Such a shift requires a move away from siloed approaches and more integrated thinking between departments. Organisations would then be in a stronger position to exert greater influence on governmental policy — one of the most significant means of change — towards a more strategic approach to food and water security planning.

Conclusion:
From Politics to Policy

His Royal Highness Prince El Hassan bin Talal and Anja Wehler- Schoeck

"The people of Syria have suffered enough,"[775] commented UN Secretary General Ban Ki Moon at the unanimous passing of the Syria roadmap in December 2015. While the resolution marked an achievement at the time, signalling major stakeholders' desire to prioritise their common interests despite profound disagreement, the current situation paints a much glummer picture. Furthermore, the statement provides troubling insight into the international community's perspective towards global misfortune. To say that Syrians have 'suffered enough' risks implying that earlier levels of suffering — like the first parents in Dara'a denouncing the torture of their children — were somehow acceptable. Such thinking demonstrates an alarming insensitivity to tragedies and indignities that are now commonplace, and denies the humanity that connects those far away to the people of Syria. In this state of affairs, humanity disqualifies itself.

Indeed, the chapters of this book depict a situation that seems irreversible and even unresolvable. Still, they also indicate the way out. Knowledge about the challenges is already part of their solutions. Moreover, while the chapters are diverse and deal with different subjects, they all fall under the umbrella of resilience. This is the agenda we must further; an ability not to avoid or prevent conflict — this is impossible, and not even desirable — but to stand fast together when conflicts arise. Humans are not an island independent of their surroundings. We need to move beyond reactionary thinking and to start envisioning a new regional architecture. Rather than await the next calamity, we must take proactive steps to promote resilience, inclusive institutions and human dignity. Such progress can be framed through the three pillars discussed in this book: sustainable development, social justice, and human security.

Within this structure, the scope of work is vast and cannot be taken on by any WANA nation alone; resilience is a regional endeavour and must be understood as part of a broader cooperation. Advances in any area must be well-founded and implemented in complement with one another; growth in a single area will suffer if the others are neglected. Furthermore, such a bold undertaking will not come without challenges and political bottlenecks. The word supranational evokes fears of encroachment on national sovereignty and external interference among many. This is exactly why we need to move from destructive political differences to constructive policies. Bearing this in mind, eight pragmatic actions are proposed below, each aimed at furthering regional cooperation and building resilience in a meaningful way. They are not quick fixes, but if WANA states can agree on one thing, it is that this region cannot wait.

A Conference for Regional Security and Cooperation in WANA

The situation in WANA signifies a deep failure of modern multilateralism, which today consists of a litany of territorial policy lines that never converge on the critical issues. The result is confusion and contestation at a time when understanding one another is key. The inability to mobilise regional initiatives for cooperation on important issues is a destabilising force in WANA. Among these, the most contentious is if and how to cooperate on security. A forum to discuss these issues, leading to the creation of a regional body dedicated to security and cooperation, is imperative. A Conference for Security and Cooperation (CoSCo) in WANA could be a first step for perceived adversaries like Iran and Saudi Arabia to grow mutually beneficial relations — much like how the Communist Bloc and the West did in the 1970s.[776]

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[775] B K Moon, address by UN Secretary General to the UN Security Council, New York, USA, 18 December 2015. Transcription as delivered: <http://www.un.org/sg/statements/index.asp?nid=9353> at 28 December 2015.
[776] Even if the Helsinki Accords never attained treaty status and thus was never legally binding by international law, they altered the climate for dialogue and eased the tensions of the Cold War.

A CoSCo in WANA, however, would be more than this. Emulating the Helsinki process (which led to the creation of the Organization for Security and Cooperation in Europe, the OSCE), it would seek to create an overarching regional framework for social cohesion and resilience; a building block for a new regional architecture and a platform from which regional policies could be launched. While substantial obstacles exist, this is not unrealistic. If France and Germany could be brought together in 1945 and transform their relations from archrivals to the closest of allies, why cannot Iran and Saudi Arabia do the same? Why could relations with Israel not be transformed, too? What speaks for this is the fact that leaders in the region have historically demonstrated the highest levels of pragmatism. When faced with new challenges and threats, ideological differences shift quickly.

In time, a CoSCo might constitute a framework for a regional treaty organisation. This is not a new idea, but previous attempts have either failed, included too few members of the region, or both.[777] We must learn from such mistakes. A West Asia- North Africa Treaty Organization (WANATO) would not only serve military security purposes. The North Atlantic Treaty Organization (NATO) enabled both military and security cooperation and a subsequent process of economic and political cooperation. Together, this produced some 50-years of peace and stability in Europe.[778] A regional treaty organisation in WANA could further both human security — protecting its members from themselves as well as from unwarranted external intervention — as well as economic progress and political integration.

WANA is a living legacy that peace and security cannot be achieved through military means alone. At present, an estimated 1,200 armed opposition groups operate in Syria.[779] Saudi Arabia, Iran, the UK, the USA, Turkey and Russia are all key actors in this increasingly internationalised conflict. Following the Paris attacks of November 2015, a number of European countries joined the campaign with full force.[780] As the death toll and human suffering continues to rise, it is increasingly clear that negotiation, not bombs, is the solution. The outcome of a CoSCo in WANA is a regional body that has the legitimacy, capacity and political will to facilitate such dialogue. Such a conference would build on the rationale of a common humanity. The alternative is that the last century of fighting and peace conferences has taught us nothing. Since 2011 alone, conflict and unrest has cost the region an estimated US$ 170 billion in foregone economic potential.[781] We cannot afford to remain adversaries; we must cooperate and wage peace. WANA's political leaders must be urged to put political differences aside and realise that security cooperation is an overarching national interest.

Implementing the Arab Social Charter

WANA's lack of social cohesion produces and reproduces identity fragmentation and animosity. It fuels sectarian, religious, ethnic and national divisions, as well as rural- urban, left-right, and rich-poor fault lines. This is why the Arab Thought Forum drafted an Arab Social Charter (ASC) in 2014. The Charter calls for the creation of communities of freedom, equality, participation, justice and rule of law. These concepts now need to be translated into action and policy implementation.

In September 2015, the UN General Assembly adopted 17 Sustainable Development Goals (SDGs). This was certainly an achievement and arguably was the most inclusive process in the history of the UN. These

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[777] The Middle East Treaty Organization (METO), established in the Baghdad Pact in 1955, later known as the Central Treaty Organization (CENTO), was dissolved in 1979 and is widely considered the least successful alliance of the Cold War.

[778] This is true only to the extent that no member country has been involved in an inter-state armed conflict with another member country. Obviously, NATO played an active role in Afghanistan and Libya, and its members have been intervening militarily in a number of countries all over the world – the USA is the most notable example, but France and the UK also count. The notable exception in Europe is the Balkan Wars.

[779] A Lund, 'The Non-State Militant Landscape in Syria', (2013), *CTC Sentinel*, vol. 6(8), 23.

[780] Al-Jazeera, 'Hollande: France to step up fight against ISIL', (2015-11-23) <http://www.aljazeera.com/news/2015/11/hollande-blair-france-step-fight-isil-paris-attacks-151123034745436.html> at 23 November 2015; UNSC, 'Security Council Unequivocally Condemns ISIL Terrorist Attacks, Unanimously Adopting Text that Determines Extremist Group Poses Unprecedented Threat', (2015-11-20) <http://www.un.org/press/en/2015/sc12132.doc.htm> at 23 November 2015.

[781] J Y Kim, remarks by World Bank Group President Jim Yong Kim at the MENA Stakeholders Event, Lima, Peru, 10 October 2015 Transcription: <http://www.worldbank.org/en/news/speech/2015/10/10/world-bank-group-president-jim-yong-kim-mena-stakeholders-event>at5 December 2015.

goals do not, however, come with a roadmap; they require that regions, countries and local communities work together to develop action plans. The ASC can serve as a regional roadmap to guide the implementation of the post-2015 agenda. It sets forth the notion of an informed and pluralistic regional citizenship, which is the first step towards inclusive politics and policy- making. This is the good governance needed to patch together chronic identity fragmentation into social cohesion based on human dignity and Arab identity.

Committing to Legal Empowerment of the Poor and the SDG on Justice

Building resilience involves empowering people to be part of the solution. The synergies that develop when people have the means and resources to adapt to change are more than crucial for social resilience; they are its foundation. The Commission on the Legal Empowerment of the Poor (LEOP) asserted an unmistakeable link between poverty, injustice, and legal exclusion. The states of WANA have had a long tradition of codified law,[782] and following the Arab renaissance, Constitutions have been at the forefront of independence proclamation, anti-colonial sentiment, ideological confession, and democratic façades for authoritarian governance.[783] These Constitutions contain provisions for human rights, but without institutions that safeguard these rights or the tools for people to claim them, they are just words.

Lack of legal empowerment has kept the poor in poverty; it is what makes the poor fragile and a privileged elite stable. Equal access to justice, on the other hand, forges a common humanity, builds social resilience and creates an anti-fragile constituency. It is key to ending conflict, combating violent extremism, and supporting economic growth. A commitment to the SGD on justice and good governance must transcend all development goals, and be at the core of WANA state policies.

Instituting a Regional Bank for Reconstruction and Development

A myriad of different banks and funds operate in WANA: the Islamic Development Bank (IDB), the Arab Fund for Economic and Social Development (AFESD) and the Arab Monetary Fund (AMF). These banks operate primarily on a bilateral basis and focus on 'traditional' sectors of the economy. They do not engage both the public and private sectors, nor is there a sufficient linkage between the policy scholarship on development and the way these funds operate. A regional investment bank mandated to finance development projects as well as initiatives to promote resilience, social cohesion and conflict avoidance, is missing, and to date there has been little initiative to contemplate one.

The benefits of a regional bank are many. They range from promoting investment driven growth, regional economic integration, small and medium-sized enterprises, and supporting inclusive economic institutions, to facilitating public-private partnerships and spearheading social and economic reforms. A specific task would be the uptake of universal zakat[784] and channelling this into poverty reducing development projects. The potential of zakat in WANA is great, and entails several billion US-Dollars in funds,[785] but it has not been utilised in a constructive fashion. Zakat is often associated with low transparency and high corruption. Moreover, funds have predominately been used to alleviate the acute needs of the poor instead of empowering them to grow out of poverty. Only if it is funnelled through a central institution can long-

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[782] For instance, the Laws of Hammurabi were codified in modern day Iraq (c. 1750 BC), and older examples include the Code of Ur-Nammu (c. 2050 BC) and the Laws of Eshnunna (c. 1930 BC).

[783] N Brown, *Consitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects for Accountable Government*, (2002), Albany: State University of New York

[784] Islam requires that Muslims pay 2.5 percent of their earnings above an established level of income in zakat, as a way to religiously 'purify' their earnings. Often conflated with alms (which in Islam is called sadaqah), a universal zakat fund could be the beginning of a regional citizenship. In the context of forced migration, if a Syrian refugee, for instance, is expected to remain in Jordan for an average of 17 years (according to the UNHCR), they have to be recognized as more than refugees. At the very least, they should be recognized by standards of a regional citizenship in WANA.

[785] J Bremer and N Wahby, 'Zakat and Economic Justice: Emerging International Models and their Relevance for Egypt', (2013) *The American University of Cairo*, <http://dar.aucegypt.edu/handle/10526/4297> at 2 December 2015.

term poverty reduction be supported, contributing to a more even distribution of income and bolstering social cohesion through a sense of belonging.

A regional bank could also act as a linking agent, channelling the foreign reserves accumulated by oil-exporting Gulf States into development projects in resource-scare and conflict-affected countries to raise economic activity and create jobs. This would accrue mutually beneficial outcomes. The resource-poor labour-abundant countries in WANA need to make legal and structural changes to attract foreign investment in order to counter unemployment, increase growth, and develop value-added sectors such as manufacturing. At the same time, resource-rich labour-scarce countries need to diversify their economies and search for new and more sustainable opportunities. The persistent trend of low oil prices provides an incentive for OPEC-countries to do this. But the biggest attraction is not a regional bank's development potential; it is the symbolism it would invoke. The solution to WANA's resilience must evolve from the region itself, both for sustainability and to galvanise the political will necessary for needed policy changes to take hold. The Bank concept is a practical elaboration that the region has the capacity to resolve its own economic challenges; resources simply need to be better tapped and managed.

Implementing the Arab Economic Charter

In 2015, the Arab Thought Forum drafted an Arab Economic Charter (AEC) to complement the ASC. It asserts that to achieve prosperity and growth, WANA states must acknowledge the interdependence of their economies and the need to function as a regional entity. The underlying premise is that economic ties and diversity in all WANA states are prerequisites for the future resilience of the region. Low levels of intra-regional trade should thereby be fundamentally questioned and the intra- regional investment opportunities carefully mapped. This will involve an uncomfortable process of dismantling territorialism and replacing it with a human focused and integrated paradigm. However, the path to economic growth and prosperity has always been uncomfortable, and it begins with an implementation of the AEC.

An important obstacle that the AEC identifies is the structural factors that effectively exclude more than half of the population from the workforce. This is the women and youth of WANA: the region's enormous untapped economic potential. WANA states might consider emulating Scandinavia's 1960-70s experiment of introducing social policies such as free child care, which enabled and empowered women to join the workforce and contribute to their national economies. It is not coincidence that Scandinavia now ranks among the world's leaders in freedom, equality, development and rule of law, as well as enjoying widely-held prosperity. As with the ASC, the AEC can serve as a guide towards sound, constructive and resilient socio-economic policies.

Drafting an Arab Green Charter

WANA's environmental challenges require urgent and comprehensive policy action. There are already innovations to negotiate these challenges, but they require 'green governance' and policies guided by environmental awareness. Ramallah, for instance, receives more rainfall than London, and yet the average Londoner enjoys 150 litres of water per day while the Palestinian West Banker struggles to receive half of this. This is the outcome of man-made policies, showcasing how environmental good governance can turn water scarcity into water sustainability. An Arab Green Charter (AGC) might be the mechanism for WANA states to develop a set of principles for green governance and environmental rights.

Governance is about making decisions; an AGC would help transform Arab governance into green governance by articulating a rationale for sound environmental policy-making. Such a charter would be a guiding beacon in the non- linear world of climate change. It could help build resilient institutions and robust policies that allow for sudden changes. Crucially, it would construct a framework for sustainable policy practises, initiated from within the region. As such, it would use, develop and further local knowledge and help accommodate local interests in a way international policies cannot. If WANA is to become truly resilient, it will have to embark on a joint social and ecological journey, during which an AGC would be the map.

Reviving the Trans-Mediterranean Renewable Energy Cooperation

WANA states face the conflicting challenges of achieving electricity and energy security, and at the same time ensuring that the manner in which such energy is produced, does not compromise climate security. Coupled with the finite nature of the Gulf state fossil fuel reserves, identifying alternative energy sources is crucial for WANA's environmental resilience and economic growth. The orientalist idea of WANA is a land of desert. Indeed, deserts make up the majority of land in the region and desertification is an issue in its own right. However, the desert also provides immense unexploited opportunities. The energy potential for renewable solar power far outweighs that of burning fossil fuels; estimates are that solar power can meet WANA's demands by around 100-fold.[786] There is thus no need to look for an alternative energy source; it is found in our most abundant endowment: sunshine.

In 2003, the Trans-Mediterranean Renewable Energy Cooperation (TREC) was a project in the making, inspired by the DESERTEC Concept of 'Clean Power from Deserts'. It did not receive the political attention it deserved. The idea was to tap into Europe and WANA's combined renewable energy sources. Using solar energy from the desert, TREC had the potential to provide enough clean energy for both Europe and WANA, and thus move these regions away from fossil fuel-dependency and towards climate security.[787] Moreover, solar power plants could deliver the energy needed for desalination at low cost, significantly reducing the consequences of fresh- water scarcity. An increased and cheap energy supply also provides incentives for industrialisation and the growth of the manufacturing sector.

Following the momentum gained by the adoption of the SDGs and COP21, the potential for TREC should be re-evaluated and revived. There may never be a better time to attract the necessary investment for solar panels and a power transfer infrastructure. Certainly, the cost of solar power is lower than power from fossil fuels with current technology and at present production costs. Moreover, as an effective deep decarbonisation pathway, it can unquestionably deliver on those investments. It is projects such as these that a region bank might envision. With the relative incentives and financial structures in place, the only element lacking is political will. If the region is to take climate change seriously — and as one of the most disproportionately affected regions, it should — then reviving a TREC initiative is a fundamental opportunity for Gulf countries to diversify their economies, a viable alternative to fossil fuels, and an investment in the future.

Establishing a Regional Council for Water Management Cooperation

Water scarcity is perhaps the most imminent challenge in WANA today. The region has always featured a sizeable arid land mass, but it seems that the most arid lands lie in the matter between our ears: an absence of will, thought and constructive ideas. This is why a regional council for Water Management Cooperation (WMC) must be part of a new WANA architecture. Such a council would not only work to sustain what little shared water resources remain and facilitate a solution-oriented dialogue between parties; it would also promote regional cooperation and conflict resolution. The Blue Peace Initiative is an example of how water management cooperation can bring non-aligned parties together.

Another purpose of a regional council for WMC would be to secure fair and sustainable access to WANA's transboundary water resources. Virtually all water resources are shared in the region, examples ranging from the Nile and Jordan River basins, to the Euphrates and Tigris. Groundwater reserves are also shared, making it of equal importance that a regional council for WMC includes groundwater preservation. Under the patronage of the USA, the Johnston Plan was developed as a framework for WMC between Israel and Jordan. Even if the plan did not deliver on all its objectives or lead to a comprehensive water-sharing agreement, it did leave its footprint: water cooperation was a central tenet of the peace plan between Israel

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[786] G Knies, U Möller and M Straub (eds), 'Clean Power from Deserts: The DESERTEC Concept for Energy, Water and Climate Security', (2007), Trans-Mediterranean Renewable Energy Cooperation, 56.
[787] ibid, 56.

and Jordan in the 1990s. It is also indicative that a regional council for WMC is realistic, and might even be desirable, between rivals. In short, cooperating on shared issues can serve a higher purpose; a tool to wage peace in a region otherwise plagued by conflict.

From Politics to Policy: The Wider Regional Positives

Resilience is complex but imperative for the formation of a new humanitarian order that places human dignity and security before economic growth and political power. This strategy presents a case for a mentality change among policy-makers to resilience thinking as well as an imperative to embrace challenge as something inherently positive. Our region has the combination of natural and human resource wealth that, properly deployed, can create modern pluralist societies in which violent extremism and terrorism have no place. Building resilience and antifragility does not mean that every possible surprise must be planned for. Rather, it entails learning how to be surprised in a constructive way. In some aspects, one could even argue somewhat paradoxically, that human security is much better catered to by embracing chaos than by promoting stability.

The region must be structured around a new architecture, starting with a Conference on Security and Cooperation, which would redefine human security as the principal national imperative. A stable Palestine that lives in economic and political proximity to Israel is also necessary, because Israel is part of the region and cannot be disregarded. Similarly, Turkey and Iran must find and seize opportunities to cooperate with the Levant, the Gulf States, Egypt and North Africa. The positive policy implications of leaving politics and interference aside in intraregional affairs would be tremendous.

Above all, we must end the war on humanity by waging peace and befriending the planet. The human environment is a system where the ecological and the social converge. We must increase our understanding of which parts of the system are vulnerable and to what, as well as which institutions and social practices enhance the capacity of the human environment to deal with unexpected events in ways that make the system more resilient.

The eight actions proposed could serve as the beginning of a regional resilience strategy. With a little political will and a lot of effort, they might also constitute the foundation of a new regional architecture, where human security is the national interest, and transboundary cooperation is preferred over conflict and ideological differences. The recommendation to hold a Conference on Security and Cooperation in the spirit of the Helsinki accord would be crucial for such a strategy's long-term success. If implemented, the strategy makes the relative gain of waging war less than that of cooperation; the irrationality of conflict will come to the fore.

La Rochefoucauld wrote that wind can both extinguish a lit candle and energise a fire. One might think of crises as wind, and building regional resilience as harnessing its power. When the winds of change attempt to extinguish the fire that is the life in WANA, the people must grow strong together and channel it to energise life. The WANA region has the potential to prosper. Let us make 2017 the year when the seeds of change find fertile soil; let us win the human race.

Biographies of the Authors

His Royal Highness Prince El Hassan Bin Talal is a direct descendant of the Prophet Muhammad (PBUH) and is the brother of His late Majesty King Hussein and the uncle of HM King Abdullah II of Jordan, serving as Jordan's Crown Prince from 1965 until 1999. A pluralist and staunch campaigner for the rights of all to live in peace and dignity, HRH is a pioneer of Interfaith dialogue and understanding. Prince Hassan's international commitments have included co-chairing the Independent Commission on International Humanitarian Issues and his current membership of the Commission on Legal Empowerment of the Poor. Prince Hassan has long had an active engagement with environmental organisations, having recently served as the Chairman of the UN Secretary-General's Advisory Board on Water and Sanitation. Prince Hassan currently chairs the High Level Forum for the Blue Peace Middle East plan. HRH established the Arab Thought Forum, the Royal Institute for Interfaith Studies, the Higher Council for Science and Technology, the Royal Scientifc Society and the West Asia-North Africa (WANA) Institute.

Mays Abdel Aziz holds a BA (Honours) in Economics and a BA (Honours) in Political Studies from Queen's University, Canada. She obtained her master's degree in International Economic Policy, with a focus on the Middle East and Intelligence Studies from the Paris School of International Affairs, Sciences Po in 2014. Her master's thesis discussed foreign direct investment flows to Jordan and their development implications. Her areas of interest include economic policies and international relations, specifically: the political economy of the West Asia – North Africa region and issues of development. At the WANA Institute, Mays undertook research in the Human Security team, with a focus on regional economic policies and the economics of refugee crises. Previously, she worked at Al-Bawaba News, the Institute of Intergovernmental Relations at Queen's University and the Arab Fund for Economic and Social Development. During her time as a student, she was the President of Queen's International Affairs Association and participated extensively in Model United Nations conferences.

Annalisa Bezzi holds a BA in Cultures and Languages of the Middle East (Honours) from the University Ca' Foscari of Venice, Italy and a MA in Islamic Law from the School of Oriental and African Studies, UK. Annalisa's work at WANA mainly revolves around women's legal empowerment in Jordan. Her project's objective is to start a debate on legal reform concerning women's rights on the grounds of progressive Islamic interpretations. She has been working closely with Shari'a lawyers, legal aid organisations and women's organisations in Jordan to identify obstacles and set a framework for dialogue to take form. Annalisa has also worked on raising awareness within Jordanian civil society on the topic of women's rights and the role of women in Islamic texts. Other projects include the mapping of the status of legal empowerment in the West Asia – North Africa region, and legal perspectives on Syria contingency planning.

Heather Elaydi holds an BSocSc (Honours) in International Development from the University of Ottawa and a master's degree from the University of East Anglia in Agriculture and Rural Development, with a focus on water security. Her master's dissertation studied mechanisms of access to land and water for Israeli settler farms in the occupied West Bank. She joined the WANA Institute to assist the sustainable development research team, where her focus was on the intersection between water and agriculture, food security, and access to natural productive resources in the West Asia-North Africa region.

Dr. Erica Harper was appointed by HRH Prince El Hassan bin Talal as the Executive Director of the WANA Institute in 2014. Prior to this, she was the Senior Rule of Law Advisor for the International Development Law Organisation in Geneva where she ran a portfolio of legal empowerment projects spanning 13 countries in the areas of customary justice, community land titling, and child protection.

During this period, she was also seconded to UNHCR as Chair of the Global Protection Cluster Taskforce on Natural Disasters. Dr. Harper has worked for various international organisations, including UNHCR and UNDP, as well as NGOs and academic institutions in Indonesia, the Philippines, Switzerland, Italy and Australia. Dr Harper is the author of six books on international legal issues, and has been published in more than 15 academic journals. She holds a Bachelor of Commerce (Economics), Bachelor of Laws (Hons) and Doctor of Philosophy (International Law). Dr. Harper is a thought leader and regular commentator on

international criminal law and the state-civil society compact; she has worked as an advisor and speech writer for political leaders and former Heads of State in Europe and Asia. The mother of three daughters, Erica aspires for a world where equal opportunity, critical thinking and social consciousness are embedded rather than tolerated norms. She is passionate about anything that takes her into the outdoors, literature and the people of Jordan.

Emily Hawley joined the WANA team to investigate the influence of political Islam in the WANA region, regional legal empowerment initiatives and the continuing impact of the Arab Spring. Prior to joining the WANA Institute, Emily was a Fulbright research scholar studying the influence of demographic rifts on Jordan's Hirak protest movement. She also interned with the Jordanian Institute of Diplomacy and the American Foreign Service Journal. Emily holds a BSc in Political Science from Santa Clara University with a minor in Arabic, Islamic and Middle Eastern Studies.

Dr Laylla Rkiouak joined the WANA Institute following the completion of her PhD at the University of Cambridge. Her PhD research was part of the stratospheric particle injection for climate engineering in the UK and investigated the surface properties of seven different particle's candidates and the ozone depletion impacts on these surfaces. Laylla also holds a BSc in Engineering and a MSc in Chemical Engineering.

Adel Elsayed Sparr is the Senior Advisor and Committee Secretary to the National Coordinator to Safeguard Democracy against Violent Extremism in Sweden. His responsibilities include the development of modalities to cooperate and collaborate with civil society and faith-based communities on the topic of violent extremism. Prior to this, Adel was the Deputy Director at the West Asia-North Africa Institute in Amman, Jordan, where he spearheaded the Institute's policy research in areas such as peacebuilding, violent extremism, legal empowerment and access to justice, migration and economic empowerment of refugees, clean energy and renewables, water scarcity, climate change and adaptation, resilience, and governance. Moreover, he served at the Consulate General of Sweden in Jerusalem and taught Middle East Studies at Uppsala University. Adel holds an M.Litt in Middle East and Central Asia Security Studies from the University of St. Andrews, as well as a BSc in Political Science and a BA in Arabic from Uppsala University.

Sean Thomas joined the WANA Institute as a research fellow charged with examining the continuing Syrian refugee crisis and its impact on surrounding states, as well as performing analyses of ongoing developments in Iraq and Syria concerning the so-called "Islamic State" organization. His research interests include the politics of refugees in Arab states, and International Relations Theory. Sean holds a First Class BA (Honours) in International Relations and Politics from Keele University, where he was awarded the Rosemary O'Kane Student Prize for Politics. He also holds an M.Litt. in Middle East, Caucasus and Central Asian Security Studies from the University of St. Andrews.

Anja Wehler-Schoeck is the Resident Director of the Amman Office of the German Friedrich-Ebert-Stiftung (FES), responsible for the foundation's work in Jordan and Iraq. FES Amman focuses on promoting democracy and social justice with activities covering a broad spectrum of political and social issues, including the field of Political Islam. Wehler-Schoeck joined FES in 2005 and has held various positions at the Berlin headquarters of the organisation. Before relocating to Jordan in 2012, she served as Desk Officer for the United States, Canada and Japan. Prior to joining FES, her assignments led her to Tunisia, Jordan and the U.S. She is the author of a number of German and English language publications, including a book on women's rights in Jordan, and is a regular contributor to various media with her analyses on Jordan and Iraq. She holds a dual master's degree in Political Science from Sciences Po Paris, France, and the Free University of Berlin, Germany.

Kim Wilkinson brought to the WANA Institute a range of skill sets and experience, including in the areas of human rights, peace studies, conflict resolution and journalism. In her inception year at the Institute, Kim led a project examining region-specific conflict drivers from an inter-disciplinary perspective. In 2016, she worked in a partnership with the Institute for Peace and Economics to develop a Conflict Resolution Model with predictive functionality, while participating in the Countering Violent Radicalization project as well. Kim obtained her master's degree from Oxford University, where she examined internet memes in the Egyptian revolution. Previously, she worked as the Online Editor at Free Speech Debate, and undertook research internships at the Australian Strategic Policy Institute and the South Asian Human Rights Documentation Centre.